

A NEW ERA FOR ENVIRONMENTAL PROTECTION IN VICTORIA



1. GENERAL INFORMATION

The Environment Protection Amendment Act 2018 (Act) is the second half of the package of reforms to overhaul environmental regulation in Victoria. Expected to commence on 1 July 2020, the new law shifts the focus from addressing environmental harm 'after the fact' to preventing environmental harm and pollution. The amendments also significantly broaden the EPA's regulatory and enforcement powers.

All businesses, industry and the community will have a general environmental duty (GED) to minimise the risk of environmental harm from pollution and waste. Many businesses who may not have comprehensive environmental management systems will need to review their current practices and make adjustments to prepare for the GED. Existing environmental management systems will also need to be revamped in the lead up to 2020.

2. NEW DUTIES AND OBLIGATIONS

The GED requires individuals and businesses to proactively take steps to eliminate or minimise risks of harm from pollution or waste in connection with any activities they undertake. This duty is modelled on the workplace health and safety legislation which businesses in Victoria will already be familiar with.

Other key proposed changes include:

- (a) affected community members will have standing to apply directly to court for civil orders restraining an activity alleged to breach an environmental duty;
- (b) a new duty to notify the EPA of pollution incidents;
- (c) new duties for waste producers through reforms to the waste management framework, including the introduction of duties for the management, control, containment, disposal and depositing of priority waste and industrial waste;
- (d) new duties regarding the management and control of contaminated land and a duty to notify the EPA of contaminated sites if the anticipated clean-up cost exceeds \$50,000; and
- (e) the introduction of a tiered, risk-based framework for site licensing.

3. NEW PERMISSIONS SYSTEM

The Act will regulate business activities according to risk with a new three-tiered permissions system. These are:

- (a) Registrations:
 - (i) automatically granted; and
 - (ii) suited to organisations posing significant risks but who have access to simple and standardised controls.
- (b) Permits for medium-high risk activities with low complexity.
- (c) Licences:
 - (i) granted for complex activities that require the most regulatory control to manage any significant risks to human health and the environment; and
 - (ii) reviewed at least every 5 years and are no longer granted indefinitely.



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4. REFORMS TO WASTE MANAGEMENT

The GED requires waste producers to identify and implement ways of minimising waste generation and waste management risks.

The amendments also formally set out the waste management hierarchy:

- (a) avoidance;
- (b) reuse;
- (c) recycling;
- (d) recovery of energy;
- (e) containment; and
- (f) waste disposal.

5. COMMUNITY RIGHTS

Businesses should take particular note of the new community rights. These new rights mean that individuals affected by environmental breaches may commence action against the responsible entity by commencing action in court. This is a significant departure from the current laws which limit this type of redress to EPA enforcement activity.

6. INCREASED PENALTIES

Part of the reforms include significant new enforcement powers for the EPA, including penalties of over \$1.6 million and criminal penalties for breaching the GED. Breaches of the industrial waste duties can result in civil and criminal penalties.

7. WHAT DOES THIS MEAN FOR YOU?

Businesses and individuals will be under stricter obligations with heavy penalties for non-compliance. This means all businesses producing waste (eg food and beverage manufacturers and cosmetics, consumer goods and packaging suppliers and retailers), as well as waste management companies (eg material recovery facilities and waste processors) must take positive steps to ensure they comply with the GED.

Get in touch to discuss what you can be doing now to prepare your business for these new duties and compliance obligations.



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