



New South Wales

Protection of the Environment Operations Amendment (Illegal Waste Disposal) Bill 2013

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are to amend the *Protection of the Environment Operations Act 1997* for the following purposes:

- (a) to create an offence of knowingly supplying false or misleading information about waste in the course of dealing with the waste that will be punishable by a maximum period of imprisonment of 18 months as an alternative or in addition to a maximum fine of \$500,000 for a corporation and \$240,000 for an individual (at present the offence is a strict liability offence that is punishable only by a maximum fine of \$250,000 for a corporation and \$120,000 for an individual),
- (b) to create an offence of committing a strict liability waste offence (which includes polluting waters with waste, polluting land, illegally dumping waste or using land as an illegal waste facility) within 5 years of any previous conviction for such an offence that will be punishable by a maximum period of imprisonment of 2 years as an alternative or in addition to a fine (at present a strict liability waste offence is punishable only by a fine),
- (c) to authorise the EPA to seize a motor vehicle or vessel it has reason to believe has been used to commit any such repeat waste offence and to enable the Land

- and Environment Court to order the forfeiture of the motor vehicle or vessel to the State if it convicts the person of the repeat waste offence,
- (d) to extend the offence of using land as a waste facility without lawful authority to using any place so as to cover illegally using a body of water as a waste facility,
 - (e) to remove from the Act the exemption from payment of the contribution by licensees of waste facilities used for the re-using, recovering, recycling or processing waste other than liquid waste, so that the operation of any such exemption can be dealt with in the regulations,
 - (f) to enable the regulations to prescribe a protocol that is to be used in determining the amount that represents the monetary benefit acquired by the offender in committing an offence and that the offender may be ordered to pay as an additional penalty for the offence,
 - (g) to make consequential or related amendments.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Protection of the Environment Operations Act 1997 No 156

Schedule 1 [1] amends section 88 of the Act to give effect to the object outlined in paragraph (e) of the Overview above.

Schedule 1 [2] amends section 144 of the Act to give effect to the object outlined in paragraph (d) of the Overview above. **Schedule 1 [7]** makes a consequential amendment.

Schedule 1 [3] amends section 144AA of the Act to give effect to the object outlined in paragraph (a) of the Overview above. **Schedule 1 [4]** makes a consequential amendment.

Schedule 1 [5] inserts proposed section 144AB into the Act to give effect to the object outlined in paragraph (b) of the Overview above.

Schedule 1 [6] inserts proposed Part 7.6A into the Act to give effect to the object outlined in paragraph (c) of the Overview above.

Schedule 1 [8] amends section 249 of the Act to give effect to the object outlined in paragraph (f) of the Overview above.

Schedule 1 [9] enables savings and transitional provisions to be made consequent on the enactment of any Act that amends the *Protection of the Environment Operations Act 1997* (including the proposed Act).

**Schedule 2 Amendment of Protection of the
Environment Administration Act 1991
No 60**

Schedule 2 makes a consequential amendment relating to the objects outlined in paragraphs (a) and (b) of the Overview above.