

Local Government Amendment (Waste Removal Orders) Bill 2006

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Local Government Act 1993* (**the Principal Act**) to allow local councils to give orders (**waste removal orders**) to owners or occupiers of residential premises for the removal or disposal of waste on those premises, or to refrain from keeping waste on those premises, where the waste is a threat to public health or the health of any individual.

Under the existing provisions of the Principal Act, a person who fails to comply with a waste removal order will be guilty of an offence (maximum penalty \$2,200). If a person fails to comply with an order, a council employee may enter the residential premises to remove or dispose of the waste, as long as appropriate notice is given (except in the case of urgency or because of the existence or reasonable likelihood of a serious risk to health or safety). Any costs incurred by the council in carrying out that removal or disposal are recoverable against the person concerned.

The proposed Act will further provide that waste removal orders remain in force (unless earlier revoked) for a maximum period of 5 years and that the paramount consideration in giving such an order is the protection of public health.

The proposed Act also provides that certain existing procedural requirements and rights to appeal do not apply in relation to waste removal orders.

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 the date of assent.

Clause 3 is a formal provision that gives effect to the amendments to the *Local Government Act 1993* set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Schedule 1 [1] amends the Table to section 124 of the Principal Act to make provision for a waste removal order in the terms as described in the above Overview. Such an order may be given when the relevant waste is, in the opinion of an environmental health officer (within the meaning of the *Public Health Act 1991*), causing or is likely to cause a threat to public health or the health of any individual.

Schedule 1 [2] inserts proposed section 128A (Orders about removal or keeping of waste) in the Principal Act to provide that a waste removal order will remain in force (unless earlier revoked) for a maximum period of 5 years and that the paramount consideration in giving such an order is the protection of public health.

Schedule 1 [3] amends section 129 (Circumstances in which compliance with this Division is required) of the Principal Act to provide that certain procedural requirements in relation to the giving of orders under that Act (including the giving of prior notice and the making and hearing of representations) will not apply to waste removal orders. However, if an order will or is likely to have the effect of making a resident homeless, the council must consider whether the resident is able to arrange satisfactory alternative accommodation.

Schedule 1 [5] amends section 142 (Orders affecting heritage items) of the Principal Act to provide that a council is not required to consider the impact on items of heritage significance when giving a waste removal order in an emergency.

Schedule 1 [6] amends section 143 (Combined orders) of the Principal Act to

provide that a waste removal order cannot be included with another order in the same instrument.

Schedule 1 [7] amends section 159 (Preparation of draft local policy for orders) of the Principal Act to provide that a local council is not required to prepare a draft local orders policy in relation to waste removal orders.

Schedule 1 [8] and [9] provide that certain appeal rights will not apply to waste removal orders (including appeals to the Land and Environment Court). **Schedule 1 [4]** makes a consequential amendment.

Schedule 1 [10] enables savings and transitional regulations to be made as a consequence of the proposed Act.