Victoria’s changing environmental law regime - progress update

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Introduction

In January this year, the Labor Government released its response to the Independent Inquiry into the Environmental Protection Agency (EPA) and environmental regulation in Victoria. The government’s response accepted nearly all of the Inquiry’s recommendations, stating that changes would be implemented to modernise Victoria’s environmental law regime.

Progress has been made this month, with the EPA releasing the Environmental Protection Bill 2017 (Vic) (Bill), which will give effect to the first commitments made by the government regarding the structure of the EPA, and the Environmental Protection (Scheduled Premises) Regulations 2017 (Vic) (SP Regulations) which is the first step towards a more streamlined licensing system.

For more information about the Inquiry and the government’s response, please refer to our article ‘Will your business be ready for Victoria’s stronger environmental regime’.

New EPA objectives and structure

The structure, funding, and functions of the EPA were key areas of concern raised by the Independent Inquiry. In response, the government committed to overhaul the EPA. The Bill, introduced on 6 June 2017, will give effect to the first part of the changes to the EPA structure and objectives for environmental regulation.

The key changes include:

• The introduction of a statutory objective for the EPA: ‘to protect human health and the environment by reducing the harmful effects of pollution and waste’.

• The EPA’s status will be as a public entity, rather than an administrative office, to reinforce the EPA’s independence from government.

• The Bill introduces a governing board to the structure of the EPA, which will be vested with the powers and functions of the EPA. The Board will be able to delegate tasks and roles, including a CEO and other staff akin to other Victorian public entities.
• Some functions that were previously carried out by the Department of Health and Human Services relating to works approvals will now be carried out by the EPA. It is anticipated that this will reduce delay and red tape in processing works approvals, licence applications, and increase consistency in regulation.

• The introduction of the statutory position of Chief Environmental Scientist (CES). The CES will have an advisory role only, and will report directly to the EPA CEO. The EPA has already appointed Dr Andrea Hinwood as its inaugural CES.

This Bill is the first major step towards creating a modern legislative framework and regulator. The second Bill (which will complete the reform of the Environment Protection Act 1970 (Vic)) is scheduled to be introduced to Parliament in 2018.

Victoria’s new ‘Scheduled Premises’ – is your business caught?

As part of the overhaul of Victoria’s environmental laws and regulations, new regulations that update ‘Scheduled Premises’ have been released. If your business or undertaking is of a type listed in the new regulation, you may be affected.

Regulation change

The SP regulations took effect on 25 June 2017, changing some definitions of the types of Victorian premises that are described as ‘Scheduled Premises’.

Owners of Scheduled Premises may be required to hold a licence or works approval, or provide financial assurance to the regulator. Such licences seek to condition certain activities that may cause environmental harm or have an impact on human health. Licence conditions can cover the operation of the site, set operating requirements, waste discharge limits and waste acceptance conditions, as appropriate.

The changes made by the SP Regulations to the list of Scheduled Premises are relatively minor at this stage. Key changes made include:

• new waste facilities being included;
• tighter regulation of new emissions of fine particles;
• limit exemptions available for small landfills;
• changes to short term asbestos storage;
• removing some low-risk scheduled premises; and
• clarifying some definitions relating to waste processing and manufacturing.

The EPA has issued guidelines that may assist impacted businesses.

What is next?

This is the first stage of the amendment process. This first stage was limited to clarify certain types of Scheduled Premises, and to make minor amendments and improvements.

Further review and changes will address the recommendations set out in the Independent Inquiry into the EPA.

We will keep you informed of the future developments as they arise.

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