
The new way for waste

The future of waste management under the *Environment Protection Act 2017*

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Introduction

The passing of the *Environment Protection Act 2017* and the subsequent *Environment Protection Amendment Act 2018 (New Act)* signals a once in a generation reform of the environment protection regime in Victoria. The new regime is scheduled to commence operation on 1 July 2020.

The Environment Protection Authority Victoria (**EPA**) and the Department of Environment, Land, Water and Planning (**DELWP**) have recently released documentation including the proposed Environment Protection Regulations (**Draft Regulations**), proposed Environment Protection Transitional Regulations, proposed Environment Reference Standard and an associated Regulatory Impact Statement. These documents are available for public consultation and comment until 31 October 2019 and are accessible [here](#).

[Our previous legal updates](#) have outlined some of the key reforms proposed by the New Act. In this update we examine the key areas of change relevant to the waste and resource recovery sector.

A number of significant environmental incidents such as toxic fires in Melbourne's north and west caused by stockpiling of recyclable materials and unlicensed storage of hazardous chemicals have prompted increased focus by the EPA on the waste sector in response to pressure to ensure human and environmental safety.

These incidents have demonstrated some of the limitations of the *Environment Protection Act 1970 (Current Act)* in relation to regulating certain waste activities whilst providing an interesting context to consider how a number of new duties imposed by the New Act will apply to the sector post 1 July 2020.

In particular, the waste and resource recovery sector will be subject to supply chain wide regulation and the EPA will have the discretion to take action in instances where there will be risk caused or potentially caused to human health or the environment in the depositing, transporting and receipt of waste. Under the current regime, the ability to pursue regulatory action is limited and this will be addressed by the implementation of the new regime.

New terminology

Under the New Act, waste can be either industrial waste or both industrial and priority waste. The concept of priority waste replaces the current terminology of “prescribed industrial waste” (which covers hazardous types of waste).

“Industrial waste”¹ is the broad category covering all waste and includes household waste once it is gathered at a waste facility.

“Priority waste”² is industrial waste which requires additional controls due to higher levels of hazard, potential for mismanagement or to encourage resource recovery or efficiency.

“Reportable priority waste” is a subset of priority waste and carries the highest level of control, reserved for waste types with the highest level of risk. Controls will exist for this type of waste including transportation by permitted vehicles and mandatory reporting requirements to the EPA each time the waste is exchanged.

Further, “waste” has been redefined in the New Act to include material that is “disposed” of in a manner that alters the environment and matter that has been discarded, rejected, abandoned or unwanted, irrespective of any potential use or value. In other words, the definition has been expanded and clarified such that “waste” remains waste until the process of resource recovery is complete.

There is a new definition of “deposit” which includes the burning of waste. The expanded definition may mean that new duties relating to the deposit of waste could be enforced in the context of human health or environmental impacts arising from fires caused by burning of hazardous chemicals.

“Re-use” has a narrow definition, which is confined to use of waste for the same or similar purpose for which the material was used before it became waste. This narrowed definition may result in closer examination of facilities which produce new products from waste materials.

New duties

A new general environmental duty (**GED**) will apply to all people engaging in an activity which may give rise to risks of harm to human health or the environment. This may include people who generate, transport, deposit or receive waste. The GED requires people to minimise those risks so far as reasonably practicable.³

Apart from the GED, one of the most significant changes implemented by the New Act will be specific duties relating to industrial waste and priority waste.

These duties focus squarely on regulating the entirety of the supply chain. At present, section 27A(2) of the Current Act requires persons dumping or depositing industrial waste to ensure this activity occurs only at licensed landfills. However, the New Act will broaden the range of places which must be authorised to accept waste and broaden the duties which apply across the supply chain to generators, producers, transporters and receivers.⁴

¹ Draft Regulations, regulation 60 “waste prescribed to be industrial waste includes waste from any source received at a place or premises which stores or handles waste generated at another location for the purpose of resource recovery or off-site transfer or disposal; and, waste transported for fee or reward, other than the collection of kerbside waste by or on behalf of a council or a Waste and Resource Recovery Group”.

² Draft Regulations, regulation 65 “waste prescribed to be priority waste includes industrial waste that is classified as priority waste under regulation 61 or 62; and, industrial waste that, had it been classified under regulation 61 or 62, would be classified as priority waste”.

³ New Act, section 25.

⁴ New Act, Part 6.4.

Industrial Waste Duty

There are two key duties relating to deposit, receipt and transportation of industrial waste:

1. Duty to:
 - not deposit or abandon industrial waste⁵
 - not receive industrial waste at the premises (applicable to person in management or control of place/premises)⁶

unless the place or premises is *authorised to receive the waste*.

“Authorised to receive waste” includes authorised by a permission⁷, exempt from the requirement for a permission,⁸ authorised in an emergency or authorised by the regulations.⁹

A person, place or premises is authorised to receive a type of industrial waste prescribed by the draft Regulations if:

- there is a declaration of use in effect for that type of industrial waste that applies to the person, place or premises; or
- waste sources on-site, for on-site storage, are stored in accordance with specifications acceptable to the EPA and waste sources are transported off-site to a person, place or premises authorised to receive industrial waste within 120 days of the day on which the waste was sourced; or
- in relation to soil from contaminated land sources on-site or from a project site containment of the soil, where a permission is not required for that activity; or
- in relation to trade waste, for discharge into the sewerage system of a water corporation in accordance with a trade waste agreement under the *Water Act 1989*; or
- in relation to manure, including any mixture of manure and biodegradable animal bedding from agricultural sources, for application to land of less than 1 tonne or 5 cubic metres per month; or
- in relation to wastewater, for use at a place or premises identified in a permit for wastewater supply, or, that meets the description of a class or premises in that permit as a place of premises where the wastewater can be used; or
- in relation to biosolids, for use at a place or premises identified in a permit in relation to biosolids supply and use, or, that meets the description of a class or premises in that permit as a place or premises where the biosolids can be used; or
- in relation to reportable priority waste for use at a place or premises identified in a permit for supply or use of reportable priority waste, or, that meets the description of a class or premises in that permit as a place of premises where the waste can be used; or
- in relation to industrial waste that is not a priority waste, for on-site storage of less than 5 cubic metres or immediate use; or
- in relation to the on-site storage of less than 5 cubic metres or immediate use of priority waste including timber treated with hazardous substances, tyres and e-waste (excluding batteries); or
- if the waste transported to the person, place or premises may be lawfully exported from or by that person, place or premises.¹⁰

⁵ New Act, section 133.

⁶ New Act, section 134.

⁷ New Act, section 3(1)(a).

⁸ New Act, section 3(1)(b).

⁹ New Act, section 3(1)(e).

¹⁰ Draft Regulations, regulation 63(a)-(k).

2. Duty on a person who has management or control of industrial waste (and is proposing to relinquish such control and management for the purposes of transportation) to *take reasonable steps* before relinquishing management or control of waste to ensure that industrial waste is or will be:
 - transported to a place or premises that is authorised to receive industrial waste;¹¹ or
 - received at a place or premises that is authorised to receive industrial waste.¹²

“*Taking reasonable steps*” can include:

- identifying and classifying the industrial waste;
- providing the person who is collecting the waste with sufficient information regarding the waste to enable transportation to a place authorised to receive industrial waste;
- verifying that the place is authorised to receive the waste.¹³

The wide group of people who will have obligations as part of the supply chain has the potential to deter unlawful dumping and imposes a clear onus on generators, receivers, transporters and those who deposit industrial waste to ensure that the waste is directed to a place that is authorised to receive it.

The draft Regulations require a person to classify industrial waste, to determine the applicable waste code and whether the waste is also a priority waste.¹⁴ When classifying industrial waste, Schedule 5 of the draft Regulations must be referred to. Schedule 5 provides a table listing all types of wastes, a description of each waste, relevant waste codes that apply to each waste and whether the waste is classified as a priority waste or reportable priority waste.¹⁵

Priority Waste Duty

Similarly, there are a number of duties relating to the management of priority waste including:

1. Duty to manage priority waste (applying to a person who manages or controls priority waste) by:
 - classifying the waste in accordance with the Act and regulations;¹⁶
 - ensuring that:
 - the priority waste is contained in a manner that prevents it from escaping;¹⁷
 - the priority waste is isolated in a manner that ensures resource recovery remains practicable;¹⁸
 - the person who collects, consigns, transfers or transports the priority waste is informed about the nature and type of priority waste, the risks arising from the waste or other information to enable the person to comply with a duty in relation to the priority waste under the New Act;¹⁹
 - taking all reasonable steps to identify and assess alternatives to waste disposal (including reuse and recycling, avoiding producing or generating²⁰);
 - having regard to alternatives to waste disposal and any guidelines issued by the EPA relating to alternatives to waste disposal when making a decision relating to waste management.²¹
2. Duty not to transport or cause to be transported, reportable priority waste other than in accordance with a permission.²²

¹¹ New Act, section 135(2)(a).

¹² New Act, section 135(2)(b).

¹³ New Act, section 135(5).

¹⁴ Draft Regulations, section 61.

¹⁵ Draft Regulations, Schedule 5.

¹⁶ New Act, section 139(1).

¹⁷ New Act, section 139(2)(a).

¹⁸ New Act, section 139(2)(b).

¹⁹ New Act, section 139(2)(c).

²⁰ New Act, section 140(1)(a).

²¹ New Act, section 140(1)(b).

²² New Act, section 143(1).

The draft Regulations require a person who has the management or control of priority waste to classify the priority waste in accordance with Schedule 5.

The Regulations prescribe requirements for classification of priority waste consigned for disposal²³ and priority waste that is soil sourced on-site from contaminated land.²⁴ Schedule 6 of the draft Regulations provides the relevant categories of priority waste, summarised in Table 1.

Table 1: Categories of priority waste²⁵

Category of Waste	Description of waste
Category A	Industrial waste: <ul style="list-style-type: none"> • that can be classified as dangerous goods under the <i>Dangerous Goods Act 1985</i>; or • that generates gases that can be classified as toxic gases under the <i>Dangerous Goods Act 1985</i>; or • with any contaminant concentration greater than the upper limits for Category B waste contaminant concentrations specified in the Waste Disposal Categories Characteristics and Thresholds; or • with any leachable concentration greater than the upper limits of Category B waste leachable concentrations specified in the Waste Disposal Categories Characteristics and Thresholds; or • for which the EPA has issued a designated classifying waste as Category A waste.
Category B	Industrial waste (other than Category A waste): <ul style="list-style-type: none"> • with any contaminant concentration greater than the upper limits for Category C waste contaminant concentrations specified in the Waste Disposal Categories Characteristics and Thresholds, but not exceeding the upper limits for Category B waste contaminant concentrations; or • with any leachable concentration greater than the upper limits for Category C waste leachable concentration specified in the Waste Disposal Categories and Thresholds, but not exceeding the upper limits for Category B waste leachable concentrations; or • for which the EPA has issued a designation classifying the waste a Category B waste.
Category C	Industrial waste (other than Category A or B waste): <ul style="list-style-type: none"> • with any contaminant concentration greater than the upper limits for Category D waste contaminant concentrations specified in the Waste Disposal Categories Characteristics and Thresholds, as in force from time to time, but not exceeding the upper limits for Category C waste contaminant Concentration; or • with any leachable concentration greater than the upper limits for Category D waste leachable concentrations specified in the Waste Disposal Categories Characteristics and Thresholds, as in force from time to time, but not exceeding the upper limits for Category C waste leachable concentrations; or • for which the EPA has issued a designation classifying the waste as Category C Waste.

²³ Draft Regulations, regulation 67.

²⁴ Draft Regulations, regulation 68.

²⁵ Draft Regulations, Schedule 6.

Category of Waste	Description of waste
Category D	Industrial waste (other than Category A, B or C waste) that is soil: <ul style="list-style-type: none"> with any contaminant concentration greater than the upper limits for fill material contaminant concentrations specified in the Waste Disposal Categories Characteristics and Thresholds, as in force from time to time, but not exceeding the upper limits for Category D waste contaminant concentrations; or with any leachable concentration greater than the upper limits for fill material leachable concentration specified in the Waste Disposal Categories Characteristics and Thresholds, as in force from time to time, but not exceeding the upper limits for Category D waste leachable concentrations; or for which the EPA has issued a designation classifying the waste as Category D waste.
Soil containing asbestos only	Soil containing asbestos only is industrial waste that is soil if the only contaminant is asbestos.
Packed waste asbestos	Packaged waste asbestos is waste asbestos (other than solid containing asbestos) contained in a manner so as to eliminate the release of airborne asbestos fibres.

Recording of Transaction Details

The draft Regulations require transaction details to be recorded, provided and retained in relation to both reportable priority waste and controlled waste. Controlled waste carries the same definition as provided in the National Environment Protection (Movement of Controlled Waste between States and Territories) (NEPM (MCW)). The NEPM (MCW) includes two tables and waste is classified as controlled waste if the waste is listed in Table 1 “Waste Categories” and possesses one or more of the characteristics listed in Table 2 “Characteristics of Controlled Wastes”.²⁶ Transaction details that must be recorded for both reportable priority waste and controlled waste include the consignment of waste for transport, transport of waste and receipt of reportable waste.²⁷

To complement the new duties, the EPA has introduced an electronic waste tracking system which will enable the EPA to monitor the movement of waste. Further, a new waste tracking tool is being developed which, together with the electronic waste tracking system, will enable the EPA to more easily detect breaches of industrial waste related duties. Alternatively, duty holders can apply for approval to provide data from their own electronic tracking system.²⁸

New penalties

Indictable offences and civil penalties can be imposed for breaches of the industrial waste duties which places an increased emphasis on the persons who relinquish control of industrial waste, to ensure the industrial waste is received at a facility that may lawfully accept it.

A person who receives transaction information in relation to the consignment, transport and receipt of controlled waste is required to retain the information for 12 months from the date on which the reportable priority waste is transported.²⁹ A person who transports controlled waste into or out of Victoria must be able to produce relevant information.³⁰ Failure to do so gives rise to civil penalties.³¹

²⁶ Draft Regulations, regulation 4; National Environment Protection (Movement of Controlled Waste between States and Territories), clause 3.

²⁷ Draft Regulations, regulation 74 – 81.

²⁸ Draft Regulations, regulation 83.

²⁹ Draft Regulations, regulation 82(1).

³⁰ Draft Regulations, regulation 82(2).

³¹ Draft Regulations, regulation 82.

Further, there will be increased penalties for repeat offenders, including the ability for a court to impose a term of imprisonment of up to 2 years on a person who commits an offence of depositing, receiving or transporting waste contrary to the Act within 5 years of being found guilty of one of the same offences relating to industrial waste.³²

New permissions

The new permissions regime will be centred on activities rather than premises. The level of assessment and regulatory oversight of a permitted activity will be proportionate to the risk posed. There will be three types of EPA permissions and in some instances the Declaration of Use tool can be used (see further below).

Permissions include:

1. licences including:
 - o development licences (currently works approvals); and
 - o operating licences to regulate complex activities/wastes which require a higher level of control to manage their risks to human health and the environment (currently licences);
2. permits (medium to high risk activities with low complexity for example where wastes are managed in large volumes or are prone to fires, mismanagement, abandonment or off-site impacts); and
3. registrations (low to medium risk activities for example where the volume of waste is small however the activity may be prone to mismanagement).

Activities subject to permission requirements

There are a number of premises which are currently unlicensed but are regulated through environment improvement plans and vehicle permits which will be subject to permissions for the first time. For many businesses, the commencement of the New Act will therefore be the first time they will have been formally regulated by a licensing regime.

Schedule 1 of the draft Regulations sets out which activities will require permissions. Some newly captured activities, relevant to the waste sector, which previously were not regulated will be subjected to permission requirements, are set out in Table 2.

Table 2: Newly captured activities which will be subject to permission requirements

Activity type	Permission requirement			
	<i>Development activity</i>	<i>Operating activity</i>	<i>Permit activity</i>	<i>Registration activity</i>
E-waste treatment comprised of reprocessing specified electronic waste at a design capacity of:				
> 500 tonnes per year ³³	✓	✓		
<500 tonnes per year ³⁴				✓
Transportation of hazardous reportable priority waste ³⁵				✓
Transportation of other reportable priority waste ³⁶				✓
Transportation of waste into or out of Victoria ³⁷			✓	

³² New Act, section 136.

³³ Draft Regulations, schedule 1, item 3.

³⁴ Draft Regulations, schedule 1, item 4.

³⁵ Draft Regulations, schedule 1, item 15.

³⁶ Draft Regulations, schedule 1, item 16.

³⁷ Draft Regulations, schedule 1, item 17-18.

Activity type		Permission requirement			
		Development activity	Operating activity	Permit activity	Registration activity
Waste and resource recovery					
	<p><i>Large</i></p> <p>Receive/store/process waste generated at another location for the purposes of resource recovery or off-site transfer of disposal if >4,000 tonnes/month; or, if >10,000 m³ of waste is stored on the premises at any time.³⁸</p>	✓	✓		
	<p><i>Medium</i></p> <p>Receive/store/process waste generated at another location for the purpose of resource recovery or off-site transfer or disposal if >4,000 tonnes/month is received; or, if >10,000m³ if of waste is stored on the premises at any time); or</p> <p>Receive/store/process waste generated at another location including specified combustible recyclable and waste material but excluding reportable priority waste, and < 4,000 tonnes of waste is received per month, or, between 5,000 m³ and 10,000m³ of waste is stored on the premises at any time.³⁹</p>	✓		✓	
	<p><i>Small</i></p> <p>Receive/store/process waste generated at another location for the purpose of resource recovery or off-site transfer or disposal, if between 5m³ and 5,000 m³ of any waste stored on the premises at any time.⁴⁰</p>				✓
Temporary storage of waste (including biomedical waste, asbestos and designated waste) ⁴¹					✓

The draft Regulations will continue to regulate particular waste operations and activities, however different quantities of waste will be subjected to different regulatory requirements. For example, under the draft Regulations, waste tyre storage for more than 40 tonnes or 5000 Equivalent Passenger Unit (EPU) of waste tyres on site at any time, will be prescribed as a development activity and prescribed operating activity.⁴² Waste tyre storage for less than 40 tonnes or 5000 EPU of waste tyres on a site at any one time, will be prescribed as a registration activity, requiring less stringent management procedures.⁴³

Under the Current Act, landfills are regulated for the discharge and deposit of solid waste, however, under the New Act landfills will also be regulated for receiving solid waste.⁴⁴

Municipal landfill servicing under the new regime will continue to be regulated and will be classified as a prescribed development activity and prescribed permit activity.⁴⁵

³⁸ Draft Regulations, schedule 1, item 19. Excluding specified combustible recyclable and waste material and reportable priority waste for the purposes of section 143 of the New Act.

³⁹ Draft Regulations, schedule 1, item 20.

⁴⁰ Draft Regulations, schedule 1, item 21. Includes specified combustible recyclable and waste material but excludes reportable priority waste for the purposes of section 143 of the New Act.

⁴¹ Draft Regulations, schedule 1, item 29-31.

⁴² Draft Regulations, schedule 1, item 13.

⁴³ Draft Regulations, schedule 1, item 14.

⁴⁴ Draft Regulations, schedule 1, item 7.

⁴⁵ Draft Regulations, schedule 1, item 8.

Development Licences

In the waste context, approvals will continue to be required to construct waste management facilities (for example landfills) in the form of development licences.

Applicants for development licences will need to demonstrate how they propose to comply with the GED when engaging in the relevant activity, the impacts on human health and the environment, the best available techniques or technologies and whether the activity is otherwise consistent with the New Act and the regulations.⁴⁶

Notably, the EPA must refuse an application for a development licence in the following circumstances:

- where the activity would pose an unacceptable risk of harm to human health or the environment;
- the applicant is not a fit and proper person to hold a development licence (which includes considering compliance with the New Act, the Current Act, the regulations and environment protection legislation of the Commonwealth, another state or territory);
- any prescribed circumstances exist (these will be prescribed in the Regulations).⁴⁷

It is an offence for a person to engage in the prescribed development activities except as authorised by a development licence.⁴⁸

Operating Licences

Transitional provisions will apply to permissions held under the EP Act, such that a licence granted under section 20 of the Current Act will become a 'prescribed new permission' which the draft Regulations have deemed to be an operating licence.⁴⁹

The EPA will have 12 months to amend, revoke or impose additional conditions on a new 'prescribed permission'.⁵⁰ Notably, there is no right of appeal against the EPA's decision.

A licence application (or amendment application) which is made under the Current Act and not finally determined when the New Act comes into operation will be taken to be an application under the New Act and will be determined under the provisions of the New Act.⁵¹

However, where an application for review has been lodged (or a right to lodge exists but the time for lodgement has not passed) against a refusal to grant a licence but the Tribunal has not finally determined the application for review, then the provision of Current Act will continue to apply.

Notably, operating licences will not apply indefinitely and the New Act provides for a limited term of up to 20 years. However, a waste management activity that is engaged in at a current or former landfill site may be granted an operating licence for a duration up to 99 years.⁵²

Applicants for an operating licence, will also need to satisfy the EPA of similar criteria to applicants for development licences as described above. Importantly the EPA *must* refuse an application for an operating licence for an activity which needs a development licence but one has not been obtained.

Declaration of Use

A Declaration of Use is designed to support safe storage, reuse and recovery of material derived from different types of lower risk wastes. A Declaration of Use may be made in relation to industrial waste or priority waste,

⁴⁶ New Act, section 69(3).

⁴⁷ New Act, section 69(4).

⁴⁸ New Act, section 44(1).

⁴⁹ New Act, section 470 and 471.

⁵⁰ New Act section 472(1).

⁵¹ See sections 475 and 499 of the New Act.

⁵² New Act, section 75.

other than reportable priority waste.⁵³

The draft Regulations detail the requirements for a Declaration of Use including requiring duty holders to complete a self-assessment in a form and manner approved by the EPA.⁵⁴ Declarations of Use will not need to be submitted to the EPA, however, in order to establish that a site is a 'lawful place', an authorised EPA officer may ask to see a Declaration of Use.

A Declaration of Use will generally be applicable for activities that do not require an EPA permission, including the following:

- immediate use of waste for resource recovery;
- application to land of certain processed organic wastes;
- on-site treatment or containment of fill material;
- processed pasteurised solid organic waste; and
- off-site storage of fill material for a period of no more than 60 days.⁵⁵

Waste Levy Scheme

The Municipal and Industrial landfill levy scheme will be replaced with a waste levy scheme which is provided for in Part 6.6 of the New Act and Part 3.6 of the draft Regulations. The waste levy scheme is similar to the current landfill levy scheme with no alteration to waste levy fee units. The Regulations will continue to subject particular municipal districts to a higher waste levy for both municipal and industrial waste.⁵⁶

The Victorian government announced on 2 June 2019 that a review would be undertaken of the current landfill levy scheme to evaluate its effectiveness. It is possible that an increase in the landfill levy has the potential to strengthen the viability of waste recovery technologies.

Priority waste will be subject to higher waste levies, however, this waste type is expected to have a greater potential for re-use. This may reduce the costs of landfilling materials which cannot be recovered or reused.

Regulations, Standards and Codes

As previously indicated, the suite of regulations made under the Current Act such as the *Environment Protection (Industrial Waste) Regulations 2009* and the *Environment Protection (Scheduled Premises) Regulations 2017* will be replaced with draft Regulations. The draft Regulations will, amongst other things, control the management, handling, re-use, recycling and disposal of wastes.

An Environment Reference Standard will replace State Environmental Protection Policies and Waste Management Policies and will identify environmental values, conditions and uses of the environment to be achieved or maintained, much like the SEPPs currently refer to beneficial uses. Consideration of environmental values must be undertaken by the EPA when issuing and reviewing licences.⁵⁷

Compliance Codes will provide guidance on the manner in which the duties and obligations applying under the New Act can be complied with. While not mandatory to comply with a Compliance Code, adherence to a Compliance Code will provide an indemnity against regulatory action.⁵⁸

The EPA has commenced industry consultation on the Landfill Compliance Code (**Code**) for the design, operation, management, rehabilitation and aftercare of landfills. The Code will replace the [*Best practice environmental management – Siting, design, operation and rehabilitation of landfills*](#) EPA Publication 788.

⁵³ Draft Regulations, section 64.

⁵⁴ Draft Regulations, regulation 64.

⁵⁵ Draft Regulations, regulation 64(4)(a)-(e).

⁵⁶ Draft Regulations, regulation 52.

⁵⁷ New Act sections 74(3)(b) and 76(3)(b).

⁵⁸ New Act section 103.

In other words, the Code will set out industry best practice management measures for complying with the duties and obligations which apply to managing operational and closed landfills. The Code must be considered in any application for any development licence or operating licence of existing and new sites. The Code is intended to apply to operators and owners of landfills with management and control of landfills. The Code will need to be applied in combination with the Regulations which will define which wastes are industrial wastes and priority waste and the classification of waste types.

Implications

The changes summarised above will have wide reaching implications for participants across the entire waste supply chain. The new duties regarding the transport and receipt of industrial and priority waste may mean that the operating procedures at licensed places or premises may need to be reviewed, to ensure that weighbridges are suitably located and proper checks can be undertaken to scrutinise incoming waste.

Current waste contracts will need to be reviewed to ensure that responsibility for waste is appropriately assigned and waste is dealt with appropriately in accordance with the new duties imposed under the New Act. In particular, companies sending material to facilities for alternatives to disposal will need to ensure that the process occurs at a facility which is authorised to receive it.

The GED has a significant focus on proactive risk management, environmental management systems and operating procedures. In order to prepare for the operation of the GED, these systems and procedures should be reviewed to ensure compliance with the Act.

Having said that, the particular measures required to be implemented to comply the GED will need to be determined on a case by case basis. It is likely that the EPA will be able to enforce the general environmental duty applying to waste facilities without the need for there to be an impact on the environment or human health caused. This will enable the EPA to pursue criminal sanctions and civil penalties against poorly performing waste management facilities much more easily than currently.

Please [contact a member](#) of the Environment and Planning team if you would like more information on the New Act or draft Regulations. We can also offer tailored training sessions on the New Act and draft Regulations at your premises.

The authors would like to acknowledge the contribution of Tess Waldron to this update.

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