

Environmental Protection Amendment Bill 2010

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Western Australia

LEGISLATIVE COUNCIL

(As amended in Committee)

Environmental Protection Amendment Bill 2010

A Bill for

An Act to amend the *Environmental Protection Act 1986*.

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Environmental Protection Amendment Act 2010*.

3 **2. Commencement**

4 This Act comes into operation as follows —

5 (a) sections 1 and 2 — on the day on which this Act
6 receives the Royal Assent;

7 (b) the rest of the Act — on the day after that day.

8 **3. Act amended**

9 This Act amends the *Environmental Protection Act 1986*.

10 **4. Section 49A inserted**

11 After section 49 insert:

12

13 **49A. Dumping waste**

14 (1) In this section —

15 *place* includes water, a vehicle and a receptacle.

16 (2) A person who discharges or abandons, or causes or
17 allows to be discharged or abandoned, any solid or
18 liquid waste in water to which the public has access
19 commits an offence.

20 (3) A person who discharges or abandons, or causes or
21 allows to be discharged or abandoned, any solid or
22 liquid waste on or in any place, other than water to
23 which the public has access, commits an offence.

24 (4) It is a defence to a charge under subsection (3) for a
25 person to show that the waste was discharged or
26 abandoned in the place concerned with the consent of
27 the person who controlled and managed that place.

- 1 (5) A person charged with committing an offence against
2 subsection (2) or (3) may be convicted of an offence
3 against the *Litter Act 1979* section 23 which is
4 established by the evidence.
5

6 **5. Section 50 amended**

- 7 (1) In section 50(3) after “subsection (2)” insert:
8

9 or section 49A(2) or (3)
10

- 11 (2) After section 50(3) insert:
12

- 13 (4) A person charged with committing an offence against
14 subsection (2) may be convicted of an offence against
15 section 49A(2) or (3) which is established by the
16 evidence.
17

18 **6. Section 74 amended**

- 19 (1) After section 74(1) insert:
20

21 (1AA) Subject to section 58 and subsection (2), it shall be a
22 defence to proceedings for an offence under
23 section 49A(2) or (3) if the person charged with the
24 offence proves that —

25 (a) the waste was discharged or abandoned —

- 26 (i) for the purpose of preventing danger to
27 human life or health or irreversible
28 damage to a significant proportion of
29 the environment; or

s. 7

- 1 (ii) as a result of an accident caused
2 otherwise than by the negligence of that
3 person;
4 and
5 (b) as soon as was reasonably practicable after the
6 waste was discharged or abandoned that person
7 notified particulars of the discharge or
8 abandonment in writing to the CEO.
9

10 (2) In section 74(2) delete “subsection (1)” and insert:

11

12 subsection (1), (1AA)

13

14 **7. Section 74A amended**

15 In section 74A:

16 (a) after “material environmental harm,” insert:

17

18 or for discharging or abandoning waste in water to
19 which the public has access

20

21 (b) delete “pollution, emission or environmental harm” and
22 insert:

23

24 pollution, emission, environmental harm, discharge or
25 abandonment

26

27 (c) after each of paragraphs (a) and (b)(i) to (vii) insert:

28

29 or

30

1 **8. Section 91A inserted**

2 After section 91 insert:

3

4 **91A. Power of inspectors and authorised persons to stop,**
5 **search and inspect vehicles, etc.**

6 (1) An inspector or an authorised person may at any time
7 stop, enter, search and inspect any vehicle or vessel if
8 he has reasonable grounds for believing that an offence
9 under this Act is being, has been or is likely to be
10 committed.

11 (2) A person who, being in charge of a vehicle or vessel,
12 fails to stop the vehicle or vessel when so required by a
13 person who makes himself known as being an
14 inspector or an authorised person commits an offence.
15

16 **9. Section 99A amended**

17 In section 99A(1):

18 (a) in paragraph (c) before “as soon” insert:

19

20 in the case of a Tier 2 offence other than an
21 offence against section 49A(2) or (3),
22

23 (b) in paragraph (d) before “after the occurrence” insert:

24

25 in the case of a Tier 2 offence other than an
26 offence against section 49A(2) or (3),
27

28 (c) after each of paragraphs (a), (c), (d) and (e) insert:

29

30 and
31

s. 10

1 **10. Section 114 amended**

2 In section 114(3) after “section” insert:

3

4 49A(2) or (3),

5

6 **11. Schedule 1 amended**

7 (1) In Schedule 1 Part 2 Division 1 after item 1B insert:

8

1CA	49A(2)	\$62 500	Nil
1CB	49A(3)	\$62 500	Nil

9

10 (2) In Schedule 1 Part 2 Division 2 after item 1B insert:

11

1CA	49A(2)	\$125 000	Nil
1CB	49A(3)	\$125 000	Nil

12

13 (3) In Schedule 1 Part 3 after item 9 insert:

14

10A	91A(2)	\$5 000	Nil
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