

Authorised Version No. 026
Environment Effects Act 1978

No. 9135 of 1978

Authorised Version incorporating amendments as at
4 May 2012

TABLE OF PROVISIONS

<i>Section</i>	<i>Page</i>
1 Short title and commencement	1
2 Definitions	1
3 Works to which this Act applies	3
4 Environment Effects Statement	3
5 The Minister may call for supplementary statement	4
6 The Minister may call for a statement	4
7 <i>Repealed</i>	5
8 Advice of Minister as to whether statement required	5
8A No decision to be made on works until advice given	6
8B Advice of Minister	6
8C Decisions not to be made and works not to proceed until assessment considered	7
8D Timeframes for decisions on works changed	8
8E Statement may be required if conditions not complied with	9
8F Only certain planning decisions affected	9
8G Secretary to give advice and assistance	10
9 Minister may cause inquiries to be held	10
10 Guidelines	10
11 Transitional provision— Environment Effects (Amendment) Act 2005	12

ENDNOTES	13
1. General Information	13
2. Table of Amendments	14
3. Explanatory Details	16

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An Act to require the Environmental Effects of certain Works to
be assessed, and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by
and with the advice and consent of the Legislative Council
and the Legislative Assembly of Victoria in this present
Parliament assembled and by the authority of the same as
follows (that is to say):

1 Short title and commencement

- (1) This Act may be cited as the **Environment Effects Act 1978**.
- (2) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette.

2 Definitions

- (1) In this Act unless inconsistent with the context or subject-matter—

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S. 2
amended by
No. 46/1998
s. 7(Sch. 1)
(ILA s. 39B(1)).

S. 2(1) def. of
Director
repealed by
No. 10087
s. 3(1)(Sch. 1
item 54(a)).

proponent means the person or body who is
carrying out or proposing to carry out any
works;

Environment Effects Act 1978
No. 9135 of 1978

s. 2

S. 2(1) def. of
public works
amended by
Nos 12/1989
s. 4(1)(Sch. 2
item 36.1),
111/1994
s. 4(a).

public works means works undertaken or proposed to be undertaken (whether commenced before, on or after the commencement of the **Environment Effects (Amendment) Act 1994**), by or on behalf of the Crown or for public statutory bodies but does not include works undertaken by or on behalf of municipal councils;

relevant Minister means in respect of any works or proposed works, the Minister concerned with the undertaking of those works;

S. 2(1) def. of
report
repealed by
No. 111/1994
s. 4(b).

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S. 2(1) def. of
Secretary
inserted by
No. 10087
s. 3(1)(Sch. 1
item 54(b)),
amended by
Nos 46/1998
s. 7(Sch. 1),
23/1999 s. 4,
substituted by
No. 86/2005
s. 3(1).

Secretary means the body corporate established by Part 2 of the **Conservation, Forests and Lands Act 1987**;

S. 2(1) def. of
the Minister
amended by
No. 10087
s. 3(1)(Sch. 1
item 54(c)),
repealed by
No. 46/1998
s. 7(Sch. 1).

statement means Environment Effects Statement;

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* * * * *

S. 2(2)
inserted by
No. 46/1998
s. 7(Sch. 1),
amended by
Nos 23/1999
s. 4, 108/2004
s. 117(1)
(Sch. 3
item 67),
repealed by
No. 86/2005
s. 3(2).

3 Works to which this Act applies

S. 3
substituted by
No. 111/1994
s. 5.

- (1) This Act applies to works that are declared to be public works for the purposes of this Act by Order of the Minister published in the Government Gazette.
- (2) The Minister must not make an Order in respect of works under subsection (1) unless the Minister is satisfied that the works could reasonably be considered to have or to be capable of having a significant effect on the environment.
- (3) The Minister must specify in an Order under subsection (1) the procedures and requirements under the guidelines that are to apply to a statement for the works.

S. 3(2)
amended by
No. 86/2005
s. 4(1).

S. 3(3)
inserted by
No. 86/2005
s. 4(2).

4 Environment Effects Statement

- (1) Before commencing any public works to which this Act applies, the proponent must cause an Environment Effects Statement to be prepared and submit it to the Minister for the Minister's assessment of the environmental effects of the works.
- (2) A copy of the statement shall be submitted to the relevant Minister by the proponent.

S. 4(1)
substituted by
No. 111/1994
s. 6(1).

S. 4(2)
amended by
No. 111/1994
s. 6(2)(a)(i).

s. 5

S. 4(3)
amended by
No. 111/1994
s. 6(2)(a)(ii).

(3) A statement under this Act shall be prepared and submitted at the expense of the proponent of the works.

S. 4(4)
amended by
Nos 10087
s. 3(1)(Sch. 1
item 55),
111/1994
s. 6(2)(a)(ii),
repealed by
No. 86/2005
s. 5.

* * * * *

S. 5
amended by
No. 111/1994
s. 6(2)(b),
substituted by
No. 86/2005
s. 6.

5 The Minister may call for supplementary statement

- (1) The Minister may at any time call for a supplementary statement containing any additional information that he or she considers necessary for the making of his or her assessment.
- (2) The proponent must cause the supplementary statement to be prepared and submitted to the Minister.
- (3) The proponent must cause a copy of the supplementary statement to be submitted to the relevant Minister.
- (4) A supplementary statement under this section is to be prepared and submitted at the expense of the proponent of the works.

6 The Minister may call for a statement

S. 6(1)
substituted by
No. 111/1994
s. 6(3).

(1) In any case where a statement has not been submitted to the Minister, the Minister may call for the statement.

S. 6(2)
amended by
No. 111/1994
s. 6(4)(a).

(2) In any case where a statement has been submitted to the Minister no works referred to therein shall be commenced or proceeded with until the assessment of the Minister with regard to the environmental effects has been considered by the relevant Minister.

- (3) The Minister shall provide the assessment as soon as reasonably practicable in the circumstances of the case.

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S. 7
repealed by
No. 111/1994
s. 6(4)(b).

8 Advice of Minister as to whether statement required

- (1) If a person or body (the *relevant decision-maker*) is required by any Act or law to make a decision in respect of works that could have a significant effect on the environment, the relevant decision-maker may seek the advice of the Minister as to whether a statement should be prepared for the works.
- (2) The relevant decision-maker must seek the advice of the Minister under subsection (1) if requested to do so by the Minister responsible for the administration of the Act or law under which the decision is made.
- (3) A proponent of works that could have a significant effect on the environment may seek the advice of the Minister as to whether a statement should be prepared for the works.
- (4) If the Minister considers that a decision is required by an Act or law in respect of works that could have a significant effect on the environment, the Minister may by notice in writing, require the person or body required to make that decision (the *relevant decision-maker*) to refer the matter to the Minister for advice as to whether a statement should be prepared for the works.

S. 8
amended by
Nos 10087
s. 3(1)(Sch. 1
item 55),
45/1987 s. 205
(Sch. item 18),
81/2004 s. 46,
substituted by
No. 86/2005
s. 7.

S. 8A
inserted by
No. 86/2005
s. 7.

8A No decision to be made on works until advice given

If a matter comes to the Minister for advice under section 8, the Minister may, by notice in writing to the relevant decision-maker and any other person or body authorised under an Act or law to make a decision with respect to the works, direct the relevant decision-maker or the person or body not to make that decision until the Minister has given advice in respect of the works under section 8B.

S. 8B
inserted by
No. 86/2005
s. 7.

8B Advice of Minister

- (1) This section applies if a matter comes to the Minister for advice under section 8.
- (2) The Minister may by notice in writing require any relevant decision-maker or proponent of the works to provide the Minister with any information that the Minister reasonably requires to decide whether a statement should be prepared for the works.
- (3) The Minister must decide whether—
 - (a) a statement should be prepared for the works; or
 - (b) a statement is not required for the works if conditions specified by the Minister are met; or
 - (c) a statement is not required for the works.
- (4) On making a decision under subsection (3), the Minister must—
 - (a) by notice in writing advise the proponent of the works, and any relevant decision-maker from whom the matter has come to the Minister for advice under section 8—
 - (i) that a statement should be prepared for the works; or

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- (ii) that a statement is not required for the works if conditions specified by the Minister are met; or
 - (iii) that a statement is not required for the works; and
- (b) give to that relevant decision-maker any other advice or assistance the Minister thinks fit to enable a decision to be made.
- (5) A notice under subsection (4)(a)(i) must specify the procedures and requirements under the guidelines that are to apply to the statement.
- (6) The Minister must also give the notice under subsection (4)(a) to each person or body to whom a direction is given under section 8A in respect of the works.
- (7) If the Minister gives a notice under subsection (4)(a)(i) in relation to works, the works are deemed to be works to which this Act applies.

8C Decisions not to be made and works not to proceed until assessment considered

S. 8C
inserted by
No. 86/2005
s. 7.

- (1) If the Minister gives a notice under section 8B to a person or body (other than the proponent) advising that a statement should be prepared for works—
- (a) the works must not proceed; and
 - (b) no decision can be made under an Act or law by that person or body in relation to the works until—
 - (i) the proponent has caused the statement to be prepared and submitted to the Minister for the Minister's assessment of the environmental effects of the works; and

(ii) the assessment has been considered by that person or body.

(2) Sections 4(3), 5, 6(1) and 6(3) apply to the preparation of a statement referred to in subsection (1).

S. 8D
inserted by
No. 86/2005
s. 7.

8D Timeframes for decisions on works changed

(1) If—

- (a) the Minister gives a notice under section 8B to a person or body (other than the proponent) advising that a statement should be prepared for works; and
- (b) the person or body is required under an Act or law to make a decision in respect of those works by a particular date—

then, subject to section 8C(1)(b), for the purpose of that Act or law that date is deemed to be the later of the following dates—

- (c) the date that is one month after the person or body receives the Minister's assessment of the statement;
- (d) the date that is one month after the particular date.

(2) If—

- (a) the Minister gives a notice under section 8B to a person or body (other than the proponent) advising that a statement is not required for works; and
- (b) the person or body is required under an Act or law to make a decision in respect of those works by a particular date—

then for the purpose of that Act or law that date is deemed to be the later of the following dates—

- (c) the date that is one month after the person or body receives the notice;
- (d) the date that is one month after the particular date.

8E Statement may be required if conditions not complied with

S. 8E
inserted by
No. 86/2005
s. 7.

If the Minister gives a notice under section 8B(4)(a)(ii) to a person or body advising that a statement is not required for works if specified conditions are met and the specified conditions are not met—

- (a) the Minister may by notice in writing advise the person or body that a statement should be prepared for the works; and
- (b) sections 8B, 8C and 8D apply as if the notice under paragraph (a) were a notice under section 8B(4)(a)(i).

8F Only certain planning decisions affected

S. 8F
inserted by
No. 86/2005
s. 7.

Sections 8 to 8E do not apply to decisions under the **Planning and Environment Act 1987** except the following decisions—

- (a) a decision to adopt a planning scheme or an amendment to a planning scheme;
- (b) a decision to approve a planning scheme or an amendment to a planning scheme;
- (c) a decision to amend or to refuse to amend an application for a permit;
- (d) a decision to grant or to refuse to grant a permit or an amendment to a permit.

s. 8G

S. 8G
inserted by
No. 86/2005
s. 7.

8G Secretary to give advice and assistance

The Secretary must, if requested by a proponent of works, give any advice and assistance (including technical advice and assistance) that he or she thinks fit to enable a proper preparation of a statement or a supplementary statement required under this Act for the works.

9 Minister may cause inquiries to be held

- (1) The Minister may, with the approval of the Governor in Council, appoint one or more persons to hold an inquiry (whether in public or in private as he sees fit) into the environmental effects of any works or proposed works to which this Act applies.
- (2) The Minister may at any time invite and receive comments on the environmental effect of any works or proposed works from the public in general or from such sections of the public as are determined by him.
- (3) If the Minister appoints one or more persons under subsection (1) to hold an inquiry into any works or proposed works, the Minister may ask the proponent of those works to contribute an amount specified by the Minister to the costs of the inquiry.

S. 9(2)
amended by
No. 86/2005
s. 8.

S. 9(3)
inserted by
No. 72/1998
s. 9.

S. 10
amended by
No. 86/2005
s. 9(2) (ILA
s. 39B(1)).

10 Guidelines

- (1) The Minister may from time to time lay down guidelines for or with respect to any matters he considers expedient to enable the carrying out of this Act, and without in any way affecting the generality of the foregoing, for or with respect to—
 - (a) the main types of works or proposed works which could require the preparation of a statement or a supplementary statement;

S. 10(1)(a)
amended by
No. 86/2005
s. 9(1)(a).

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- (b) procedures to be followed by proponents;
- (ba) the procedures and requirements for—
- (i) advertising or exhibiting (or both) statements, supplementary statements and information relating to procedures and requirements for the preparation of statements and supplementary statements;
 - (ii) public consultation to be undertaken in relation to works to which this Act applies, including consultation in relation to the requirements for the scope and preparation of statements and supplementary statements;
- (c) matters which should be contained in a statement or a supplementary statement;
- (d) any information or other matter he considers could be of assistance.
- (2) Without limiting subsection (1), the guidelines may—
- (a) set out different procedures and requirements for different works or different kinds of works;
 - (b) apply, adopt or incorporate, with or without amendments, any matter contained in any document or standard published by any authority or body as published from time to time or at the time the guidelines are made or at any time before then.

S. 10(1)(ba)
inserted by
No. 86/2005
s. 9(1)(b).

S. 10(1)(c)
amended by
Nos 111/1994
s. 6(4)(e),
86/2005
s. 9(1)(a).

S. 10(2)
inserted by
No. 86/2005
s. 9(2).

S. 11
inserted by
No. 86/2005
s. 10.

**11 Transitional provision—Environment Effects
(Amendment) Act 2005**

This Act as amended by the **Environment Effects (Amendment) Act 2005** does not apply to the following works and those works are to be dealt with in accordance with this Act as if the 2005 Act had not been enacted—

- (a) any works that have been declared to be public works for the purposes of this Act by an Order made under section 3 before the commencement of the 2005 Act;
 - (b) any works in respect of which the Minister has given advice, under section 8(2) of this Act as in force immediately before the commencement of the 2005 Act, that a statement should be prepared in respect of those works.
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ENDNOTES

1. General Information

The **Environment Effects Act 1978** was assented to on 23 May 1978 and came into operation on 1 October 1978: Government Gazette 27 September 1978 page 3077.

2. Table of Amendments

This Version incorporates amendments made to the **Environment Effects Act 1978** by Acts and subordinate instruments.

Statute Law Revision Act 1984, No. 10087/1984

Assent Date: 22.5.84
Commencement Date: 22.5.84: subject to s. 3(2)
Current State: All of Act in operation

Planning and Environment Act 1987, No. 45/1987

Assent Date: 27.5.87
Commencement Date: S. 205(Sch. item 18) on 16.2.88: Government Gazette 10.2.88 p. 218
Current State: This information relates only to the provision/s amending the **Environment Effects Act 1978**

Local Government (Consequential Provisions) Act 1989, No. 12/1989

Assent Date: 9.5.89
Commencement Date: S. 4(1)(Sch. 2 item 36.1) on 1.11.89: Government Gazette 1.11.89 p. 2798
Current State: This information relates only to the provision/s amending the **Environment Effects Act 1978**

Environment Effects (Amendment) Act 1994, No. 111/1994

Assent Date: 20.12.94
Commencement Date: 20.12.94
Current State: All of Act in operation

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Environment Effects Act 1978**

Planning and Environment (Amendment) Act 1998, No. 72/1998

Assent Date: 4.11.98
Commencement Date: S. 9 on 3.12.98: Government Gazette 26.11.98 p. 2851
Current State: This information relates only to the provision/s amending the **Environment Effects Act 1978**

Local Government (Melbourne City Council Rates) Act 1999, No. 23/1999

Assent Date: 25.5.99
Commencement Date: 25.5.99: s. 2
Current State: All of Act in operation

Planning and Environment (General Amendment) Act 2004, No. 81/2004

Assent Date: 16.11.04
Commencement Date: S. 46 on 23.5.05: Government Gazette 19.5.05 p. 930
Current State: This information relates only to the provision/s amending the **Environment Effect Act 1978**

Environment Effects Act 1978
No. 9135 of 1978

Endnotes

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 67) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Environment Effects Act 1978**

Environment Effects (Amendment) Act 2005, No. 86/2005

Assent Date: 29.11.05
Commencement Date: Ss 3–10 on 30.6.06: Government Gazette 8.6.06 p. 1092
Current State: All of Act in operation

3. Explanatory Details

No entries at date of publication.