

# Local Nuisance and Litter Control Act 2016

## Factsheet 1 - Litter

Littering and illegal dumping is a highly visible form of environmental pollution which has the potential to be harmful to people and the environment. Such activities also represent significant issues for the community, with impacts on amenity and health as well as significant clean-up costs for local government, state government and private landowners.

### What is litter?

Litter can be any object disposed of by a person, either onto land or into any waters whether by a pedestrian, from a vehicle, or from a premises. Disposing of litter also means discarding or depositing litter or allowing litter to be blown from, or to fall from a premises or vehicle. Where the disposal occurs from a vehicle the liability for the offence rests with the owner of the vehicle. Illegal dumping is a significant form of littering usually conducted in association with a vehicle of some description.

The *Local Nuisance & Litter Control Act 2016* (the Act) introduces specific classes for certain types of litter. These are:

#### *General litter*

Any solid or liquid domestic or commercial waste including, but not limited to, chewing gum, cigarettes or cigarette butts, food, beverage containers, packaging, furniture, green waste, personal items such as clothing and footwear, demolition material, building or construction material, vehicles or vehicle parts, farm or agricultural machinery or equipment, dead or diseased animals.

#### *Class A hazardous litter*

Asbestos or things containing asbestos, any combination of class A hazardous litter and general litter.

#### *Class B hazardous litter*

Live cigarettes or cigarette butts, used syringes, glass, any combination of class B hazardous litter and general litter.

**Note:** *Litter categories may also contain materials prescribed in the regulations.*

### What are the impacts of litter?

Litter can be harmful to people, animals, birds, marine-life and the environment, in many different ways.

- Broken glass, cans or syringes in public areas can result in human injury whilst food can attract flies and vermin, which carry disease. Items such as discarded fishing lines and plastics can maim or kill marine or bird life.
- Hazardous materials contained within litter and illegally dumped rubbish can leach into water sources, contaminate soil and pollute the air.

- 'Live' cigarette butts present a severe fire hazard risk.
- Litter can choke and damage waterways, block drains and cause flooding.
- Litter directly and indirectly affects the tourism industry.
- Litter can also affect the amenity of an area and reduce the ability of people to enjoy their outdoor environment by making outdoor activities such as barbeques, picnics and sports, unpleasant and unappealing.
- Littering costs the community, councils and state governments many thousands of dollars each year to clean up.

## What is the law with regard to littering?

It is an offence under the Act to dispose of litter either on to land or into any waters and there are significant penalties where this occurs, depending upon the type and amount of litter that was disposed. The Act stands to reinforce that we all have a responsibility to ensure that deliberate littering does not occur and in situations where it may unintentionally occur, all reasonable steps should be taken to try and retrieve the litter. A litterer must also remove litter on request by an Authorised Officer.

## What are the penalties for littering?

### *Class A hazardous litter (any amount)*

- Body corporate – Maximum penalty: \$250,000
- Natural person – Maximum penalty: \$120,000 or 2 years imprisonment

### *Class B hazardous litter up to 50 litres:*

- Maximum penalty: \$10,000
- Expiation fee: \$500

### *Class B hazardous litter or general litter greater than 50 litres:*

- Body corporate – Maximum penalty: \$60,000
- Natural person – Maximum penalty: \$30,000 or 6 months imprisonment
- Expiation fee: \$1,000

### *General litter up to 50 litres:*

- Maximum penalty: \$5,000
- Expiation fee: \$210

### *Refusal to remove litter:*

- Maximum penalty: \$5,000
- Expiation fee: \$210

## Littering from a vehicle

Illegal dumping and littering are frequently associated with vehicles and it's not uncommon to see cigarette butts and other litter being thrown or blown from vehicles.

The Act applies an onus to the owner of a vehicle for an offence committed in association with, or from, a vehicle. This operates in a similar manner to speed and red-light camera infringements whereby a vehicle owner has an opportunity to declare someone else to have been responsible for the offence although the onus remains upon that person to prove that fact.

This provision operates alongside public litter reporting as it will allow for an expiation, as discussed above, to be issued to the owner of a vehicle identified via licence plate and other identifying attributes. Separate fact sheets are available on this topic.

## Litter Abatement Notices

Abatement notices are important legislative instruments designed to secure compliance and have the scope of instructing a person or persons to comply with a wide range of directions. This means that a council or administering body can issue a Litter Abatement Notice to direct a person to undertake or do certain things such as:

- discontinue or not commence an activity indefinitely or for a specified time
- that a person take specified action
- make good damage or clean up litter
- furnish results or reports as requested
- develop a plan of action to secure compliance.

**Note:** A plan of action – which could be applicable to an event or domestic, industrial or retail premises - will also need to include written proposals for ensuring litter clean up, prevention of further litter, keeping an area around a premises (no greater than 100m) litter free, or the repair or remediation required with respect to any damage caused by a contravention.

In certain circumstances – and subject to specific conditions – an authorised officer may orally issue an emergency notice if urgent action is required. Failure to comply with an abatement notice carries a significant court imposed penalty fee or a minimum \$500 expiation fee. It is also an offence for someone to hinder or obstruct a person complying with an abatement notice.

## More information

This fact sheet is one of a range designed to increase your awareness and understanding of the requirements of the *Local Nuisance and Litter Control Act 2016*. Please see other fact sheets for further information about the Act.

### Disclaimer

*This publication is a guide only and will not necessarily provide adequate information relevant to every situation. Whilst it seeks to explain your possible obligations in a helpful and accessible way, it is likely that some detail may not be captured. It is important, therefore, that where necessary you make your own determination as to whether you should seek legal advice.*