

TASMANIA

LITTER BILL 2007

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Application of Act
5. Objects of Act
6. Act binds Crown

PART 2 – APPOINTMENT OF AUTHORISED OFFICERS

7. Power of Secretary to appoint authorised officers
8. Power of councils to appoint employees as authorised officers

PART 3 – PROHIBITION OF LITTERING

Division 1 – Littering

9. Littering

Division 2 – Unsolicited documents and advertising material

10. Meaning of “unsolicited document”
11. Unsolicited documents must be put in mailboxes, &c.
12. Leaflets, &c., not to be placed on vehicles
13. Bill-posting without consent
14. Advertiser must disclose name of distributor

- 15. Distributor must disclose name of depositor
- 16. Duty of person authorising or arranging for unsolicited document

Division 3 – Infringement notices

- 17. Service of infringement notice
- 18. Form of infringement notice
- 19. Acceptance of infringement notice
- 20. Extension of acceptance period
- 21. Payment
- 22. Effect of acceptance
- 23. Withdrawal of infringement notice

Division 4 – Owner onus

- 24. Owner onus in respect of motor vehicles and trailers
- 25. Proceedings in respect of owner onus liability
- 26. Evidentiary effect of statutory declaration in proceedings against another person
- 27. More than one registered operator
- 28. Infringement notices relating to owner onus offences
- 29. Bodies corporate and joint registered operators
- 30. Exceptions to liability of registered operators
- 31. Time limit for proceedings arising from owner onus

Division 5 – Removal and prevention of litter

- 32. Special authority for authorised officers in reserved lands
- 33. Duty of litterer to remove litter
- 34. Court may order removal of litter
- 35. Litter abatement notices
- 36. Form of litter abatement notices
- 37. Amendment or revocation of litter abatement notices
- 38. Recovery of costs arising from litter abatement notices

Division 6 – Reporting of offences by public

- 39. Reports of offences

40. False or misleading statements

PART 4 – POWERS OF AUTHORISED OFFICERS

41. Powers of authorised officers
42. Obstruction of authorised officers
43. Names and addresses of offenders
44. Powers of police officers
45. Direction by police officers in connection with offences
46. Facilitation of proof of certain matters
47. Evidence of identity and authority

PART 5 – LITTER MANAGEMENT FUND

48. Litter Management Fund

PART 6 – MISCELLANEOUS AND SUPPLEMENTAL

49. Protection from liability
50. Delegations of functions, &c., by Secretary
51. Evidentiary provision
52. Regulations
53. Administration of Act
54. Consequential Amendments
55. Legislation repealed

SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS

SCHEDULE 2 – LEGISLATION REPEALED

LITTER BILL 2007

(Brought in by the Minister for Tourism, Arts and the Environment, the Honourable Paula Catherine Wriedt)

A BILL FOR

An Act to make provision with respect to the control and prevention of litter, to amend the *Crown Lands Act 1976*, to repeal the *Litter Act 1973* and for other purposes

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Litter Act 2007*.

2. Commencement

The provisions of this Act commence on a day or days to be proclaimed.

3. Interpretation

In this Act, unless the contrary intention appears –

“**approved**” means approved by the Secretary;

Litter Act 2007
Act No. of

s. 3

Part 1 – Preliminary

“authorised officer” means an authorised officer appointed under section 7 or 8;

“corresponding law” means a law of another State or a Territory of Australia dealing with either or both of the following subjects:

- (a) the driving of motor vehicles on roads;
- (b) the use of motor vehicles and trailers on roads;

“deposit”, in respect of litter, includes –

- (a) drop or throw litter in, on or into a place; and
- (b) leave litter in or on a place; and
- (c) put litter in such a location that it falls, descends, blows, is washed, percolates or otherwise escapes or is likely to fall, descend, blow, be washed, percolate or otherwise escape into or from a place; and
- (d) cause, permit or allow litter to fall, descend, blow, be washed, percolate or otherwise escape into or from a place;

“document” means any record of information and includes –

- (a) anything on which there is writing; and

Litter Act 2007
Act No. of

Part 1 – Preliminary

s. 3

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- (b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and
 - (c) anything from which sounds, images or writing can be reproduced with or without the aid of anything else; and
 - (d) a map, plan, drawing or photograph;

“escape” includes fall, descend and percolate, and be blown or washed, into, on or from any place;

“Fund” means the Litter Management Fund established under section 48;

“general manager” means the general manager of a council appointed under the *Local Government Act 1993*;

“infringement notice” means an infringement notice served in accordance with Division 3 of Part 3;

“land” means any land, whether publicly or privately owned, and includes any buildings or other structures permanently affixed to the land;

“litter” includes –

Litter Act 2007
Act No. of

s. 3

Part 1 – Preliminary

- (a) any solid or liquid domestic or commercial refuse, debris or rubbish and, without limitation, includes any glass, metal, plastic, cigarette butts, paper, fabric, wood, food, abandoned vehicles, abandoned vehicle parts, construction or demolition material, garden remnants and clippings, soil, sand and rocks; and
- (b) any other material, substance or thing deposited in or on a place if its size, shape, nature or volume makes the place where it is deposited disorderly or detrimentally affects the proper use of that place –

whether or not the litter has any value when or after being deposited in or on the place;

“litter abatement notice” means a litter abatement notice served under section 35;

“luxury hire car” means a small passenger vehicle in respect of which a licence is required under Part 4A of the *Taxi and Luxury Hire Car Industries Act 1995*;

“motor vehicle” has the meaning given by the *Vehicle and Traffic Act 1999*;

Litter Act 2007
Act No. of

Part 1 – Preliminary

s. 3

“open private place” means a private place that is situated –

- (a) in or on land and that is not within a building on the land; or
- (b) in or on waters;

“place” includes a receptacle, vehicle and any waters;

“public passenger vehicle” means –

- (a) a motor vehicle that is used or intended to be used for the purpose of carrying passengers for reward; or
- (b) a motor vehicle with a seating capacity of 13 or more adults, including the driver;

“registered operator” of a motor vehicle or trailer has the meaning assigned to that expression under the *Vehicle and Traffic Act 1999* and includes –

- (a) the registered operator of the motor vehicle or trailer within the meaning of a corresponding law; and
- (b) in the case of a motor vehicle or trailer to which a trade plate or similar device is affixed under the *Vehicle and Traffic Act 1999* or under a corresponding law, the

Litter Act 2007
Act No. of

s. 3

Part 1 – Preliminary

person to whom the trade plate or device has been issued; and

- (c) in the case of a motor vehicle or trailer for which a short term unregistered vehicle permit or similar permit has been issued under the *Vehicle and Traffic Act 1999* or under a corresponding law, the person to whom the permit has been issued;

“reserved land” has the same meaning as in the *Nature Conservation Act 2002*;

“Secretary” means the Secretary of the Department;

“small passenger vehicle” means a motor vehicle with a seating capacity of less than 13 adults, including the driver, that is designed and constructed primarily for the carriage of passengers;

“statutory defence” means a defence provided by section 24(2);

“taxi” means a vehicle for which a licence to be operated as a taxi is required under the *Taxi and Luxury Hire Car Industries Act 1995*;

“trailer” has the meaning given by the *Vehicle and Traffic Act 1999*;

“vehicle” means –

Litter Act 2007
Act No. of

Part 1 – Preliminary

s. 4

- (a) any thing that is capable of transporting a person, including an aeroplane, boat, bicycle, bus and train; or
- (b) any trailer that is attached to any such thing;

“warrant” means a warrant under the *Search Warrants Act 1997*.

4. Application of Act

- (1) The application of this Act extends to –
 - (a) all Crown land; and
 - (b) the coastal waters of the State, within the meaning of the *Coastal Waters (State Powers) Act 1980* of the Commonwealth.
- (2) Subsection (1)(a) has effect notwithstanding section 35 of the *National Parks and Reserves Management Act 2002*.
- (3) Subject to subsection (2), this Act does not derogate from the provisions of any other Act.

5. Objects of Act

The objects of this Act are –

- (a) to prohibit the deposit of litter in the environment; and

Litter Act 2007
Act No. of

s. 6

Part 1 – Preliminary

- (b) to regulate the distribution of materials that may become litter; and
- (c) to facilitate the removal of litter; and
- (d) generally to protect and enhance the quality of the Tasmanian environment.

6. Act binds Crown

This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

PART 2 – APPOINTMENT OF AUTHORISED OFFICERS

7. Power of Secretary to appoint authorised officers

(1) The Secretary may appoint –

- (a) State Service officers and State Service employees appointed or employed in the Department; or
- (b) with the consent of the Head of another Agency, State Service officers and State Service employees appointed or employed in that Agency –

as authorised officers for the purposes of this Act, and those persons may exercise the powers and perform the functions of an authorised officer in conjunction with State Service employment.

(2) A police officer is an authorised officer.

(3) The Secretary may, with the consent of any person, appoint that person or an employee of that person as an authorised officer.

(4) An appointment as an authorised officer may be made on such terms and conditions as the Secretary determines and, in particular, the instrument of appointment may provide that all or any of the powers conferred on an authorised officer by this Act may be exercised exclusively in respect of reserved lands or exclusively in respect of lands other than reserved lands.

Litter Act 2007
Act No. of

s. 8

Part 2 – Appointment of Authorised Officers

8. Power of councils to appoint employees as authorised officers

The general manager of a council may appoint an employee of the council to be an authorised officer for the purposes of this Act.

PART 3 – PROHIBITION OF LITTERING

Division 1 – Littering

9. Littering

- (1) A person must not deposit litter that is 55 litres or less in volume –

- (a) in or on a public place; or
- (b) in or on any open private place unless he or she is the owner or occupier of the place or has the express consent of the owner or occupier.

Penalty: Fine not exceeding 20 penalty units.

- (2) A person must not deposit litter consisting solely of a cigarette butt, confectionery wrapper, bus ticket or other small item, whether of a similar kind or not –

- (a) in or on a public place; or
- (b) in or on any open private place unless he or she is the owner or occupier of the place or has the consent of the owner or occupier.

Penalty: Fine not exceeding 2 penalty units.

- (3) Liability for an offence under subsection (2) is in substitution for any other liability under this section.

Litter Act 2007
Act No. of

s. 9

Part 3 – Prohibition of Littering

- (4) A person must not deposit litter that is more than 55 litres in volume –
- (a) in or on a public place; or
 - (b) in or on any open private place unless he or she is the owner or occupier of the place or has the express consent of the owner or occupier.

Penalty: Fine not exceeding 50 penalty units.

- (5) A person must not deposit litter that is 55 litres or less in volume in or on any open private place so that –
- (a) any part of that litter escapes; or
 - (b) any part of that litter is likely to escape –

into or on a public place or any other private place.

Penalty: Fine not exceeding 20 penalty units.

- (6) A person must not deposit litter that is more than 55 litres in volume in or on any open private place so that –
- (a) any part of that litter escapes; or
 - (b) any part of that litter is likely to escape –

into or on a public place or any other private place.

Penalty: Fine not exceeding 50 penalty units.

Litter Act 2007
Act No. of

Part 3 – Prohibition of Littering

s. 9

(7) A person must not deposit litter that is 55 litres or less in volume in a public place in a receptacle provided for litter if –

- (a) the litter is not of the size, shape, nature or volume for which the receptacle is provided; or
- (b) owing to the size, shape, nature or volume of the litter, it is evident that the litter is of household or commercial origin.

Penalty: Fine not exceeding 20 penalty units.

(8) A person must not deposit litter that is more than 55 litres in volume in a public place in a receptacle provided for litter if –

- (a) the litter is not of the size, shape, nature or volume for which the receptacle is provided; or
- (b) owing to the size, shape, nature or volume of the litter, it is evident that the litter is of household or commercial origin.

Penalty: Fine not exceeding 50 penalty units.

(9) Subsection (7)(b) and subsection (8)(b) do not prevent the deposit of litter in a receptacle in a public place if the receptacle is clearly marked as being for litter of household or commercial origin.

Litter Act 2007
Act No. of

s. 9

Part 3 – Prohibition of Littering

- (10) Subsections (1), (2), (3) and (4) do not apply to the placing of a receptacle containing litter in or on a public place for the litter to be removed by a garbage collection service.
- (11) Subsections (1), (2), (3), (4), (5) and (6) do not apply to –
 - (a) the depositing of litter in accordance with any authority lawfully given by a State Service officer or State Service employee or by a council; or
 - (b) the depositing of litter in any place if there is lawful authority to do so.
- (12) In a prosecution for an offence against this section, it is a defence if the litterer can show –
 - (a) that the deposit of the litter was accidental and that he or she took all reasonable steps to retrieve the litter; or
 - (b) that the deposit of the litter was an unavoidable consequence of a lawful activity.
- (13) For the purposes of subsection (12)(b), a consequence is unavoidable if there was at the relevant time no reasonably practicable way of avoiding it.
- (14) Subject to subsections (12) and (13), an offence against this section is an offence of strict liability.

Litter Act 2007
Act No. of

Part 3 – Prohibition of Littering

s. 10

Division 2 – Unsolicited documents and advertising material

10. Meaning of “unsolicited document”

For the purposes of this Division, a document is taken to be unsolicited if it is deposited at any premises without being addressed by name to a person who owns or occupies the premises.

11. Unsolicited documents must be put in mailboxes, &c.

- (1) A person delivering an unsolicited document to any premises must not deposit the document in any place on the premises unless he or she places the document securely –
- (a) in a receptacle, slot or other place that is used for the deposit of mail at the premises; or
 - (b) in a receptacle or slot that is used for the deposit of newspapers at the premises; or
 - (c) under the door of the premises; or
 - (d) in a place that is in a building and is suitable for the deposit of the document.

Penalty: Fine not exceeding 20 penalty units.

- (2) Subsection (1) does not apply to –
- (a) any newspaper, or any material folded or inserted into a newspaper; or

Litter Act 2007
Act No. of

s. 12

Part 3 – Prohibition of Littering

- (b) any document issued or distributed under, in accordance with, or for the purposes of, any Act of Tasmania or the Commonwealth; or
- (c) any document that is given personally to a person at the premises; or
- (d) any document that is of such a size, shape or volume that it is not possible or appropriate for it to be deposited in accordance with subsection (1).

12. Leaflets, &c., not to be placed on vehicles

A person must not deposit any document in or on any vehicle without the express consent of the owner or driver of the vehicle or unless the person depositing the document is exercising a power given to him or her by any law.

Penalty: Fine not exceeding 20 penalty units.

13. Bill-posting without consent

A person must not affix any document on to any fixed structure without the express consent of the owner, occupier or manager of the structure.

Penalty: Fine not exceeding 20 penalty units.

Litter Act 2007
Act No. of

Part 3 – Prohibition of Littering

s. 14

14. Advertiser must disclose name of distributor

A person who authorises or arranges for the distribution of an unsolicited document must, within 7 days after receiving a written request for the information from an authorised officer, give to the authorised officer the name and address of the person who is responsible for distributing the document in any area.

Penalty: Fine not exceeding 20 penalty units.

15. Distributor must disclose name of depositor

A person who engages another person (whether as an employee or as an agent) to deposit unsolicited documents at premises within an area must, within 7 days after receiving a written request for the information from an authorised officer, give the authorised officer the name and address of that other person.

Penalty: Fine not exceeding 20 penalty units.

16. Duty of person authorising or arranging for unsolicited document

- (1) A person who authorises or arranges for the distribution of a document that is distributed, or intended to be distributed, as an unsolicited document must ensure that the document is deposited in a way that prevents it from becoming litter.

Litter Act 2007
Act No. of

s. 17

Part 3 – Prohibition of Littering

Penalty: Fine not exceeding 20 penalty units.

- (2) It is a defence to a charge under this section for the person charged to show that he or she took all reasonable steps to comply with this section.

Division 3 – Infringement notices

17. Service of infringement notice

- (1) An authorised officer may serve an infringement notice on a person who has attained the age of 16 years, if he or she reasonably believes that the person has committed a prescribed offence against this Act.
- (2) An infringement notice is not to relate to 4 or more offences.

18. Form of infringement notice

- (1) An infringement notice –
- (a) is to be in an approved form; and
 - (b) is to specify –
 - (i) the offence to which it relates; and
 - (ii) the prescribed penalty for that offence; and
 - (iii) the total amount payable; and

Litter Act 2007
Act No. of

Part 3 – Prohibition of Littering

s. 19

- (iv) the place at which the penalty must be paid; and
 - (v) any other prescribed details.
- (2) An infringement notice is to state that the person on whom it is served may disregard the notice but that, on doing so, he or she may be prosecuted for the offence to which the notice relates.

19. Acceptance of infringement notice

A person may accept an infringement notice by –

- (a) paying the total amount payable at the place specified in the notice within 21 days after being served with the notice; or
- (b) lodging at that place within 21 days after being served with the notice a written undertaking to pay the amount payable.

20. Extension of acceptance period

If an infringement notice is not accepted before the period referred to in section 19 expires, an authorised officer may allow a further period of 14 days commencing on that expiry for the acceptance of that notice.

Litter Act 2007
Act No. of

s. 21

Part 3 – Prohibition of Littering

21. Payment

- (1) If a person undertakes under section 19(b) to pay any amount payable under an infringement notice, an authorised officer may determine the period, not exceeding 63 days from the day on which the notice was served, within which the amount must be paid.
- (2) A person may make representations to an authorised officer in respect of his or her ability to pay the amount.
- (3) An authorised officer is to take the person's representations into account before determining the period within which the amount is to be paid.
- (4) If a person fails to pay any amount in accordance with an undertaking given under section 19, the same proceedings may be taken against the person in respect of the amount remaining outstanding as if it were a penalty imposed on the person on summary conviction.

22. Effect of acceptance

- (1) The acceptance of an infringement notice is not an admission of liability in any civil proceedings.
- (2) Proceedings against a person for an offence, to which an infringement notice relates that has not been withdrawn, must not be brought –
 - (a) if the person accepts the infringement notice; or

Litter Act 2007
Act No. of

Part 3 – Prohibition of Littering

s. 23

- (b) within 28 days after the notice was served, if the person has not been allowed a further period under section 20; or
- (c) within 42 days after the notice was served, if the person has been allowed a further period under that section.

23. Withdrawal of infringement notice

- (1) An authorised officer may, by notice in writing in an approved form, withdraw an infringement notice served on a person if he or she reasonably believes that –
 - (a) the infringement notice should not have been served; or
 - (b) the person should be proceeded against for the offence to which the notice relates.
- (2) An infringement notice may be withdrawn whether or not it has been accepted.
- (3) An infringement notice is to be withdrawn –
 - (a) by serving on the person a notice stating that the infringement notice has been withdrawn; and
 - (b) within 108 days after service of the infringement notice.

Litter Act 2007
Act No. of

s. 24

Part 3 – Prohibition of Littering

- (4) Where an infringement notice has been served and has been withdrawn –
 - (a) any amount paid in respect of the notice is to be repaid to the person who paid it; and
 - (b) evidence of the service, acceptance or withdrawal of the notice is not admissible in any proceedings for the offence to which the notice relates.

Division 4 – Owner onus

24. Owner onus in respect of motor vehicles and trailers

- (1) If –
 - (a) an offence against this Act arising from the use, driving, parking, standing or leaving of a motor vehicle or trailer has been committed; and
 - (b) the identity of the person who committed the offence cannot be immediately established –

the registered operator of the motor vehicle or trailer, as the case may be, is taken to have committed the offence, whether or not he or she was driving, or in charge of, the motor vehicle or trailer at the time of the offence unless he or she can establish a defence under this section.

Litter Act 2007
Act No. of

Part 3 – Prohibition of Littering

s. 25

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- (2) It is a defence to a charge for an offence under this section if the registered operator can establish that the offence was committed by another person or that, at the time of the occurrence of the offence –
- (a) the motor vehicle was being driven, or the trailer was being used, without the knowledge or consent of the registered operator; or
 - (b) the motor vehicle or trailer was in the charge of another person; or
 - (c) the registered operator had no right or interest in the motor vehicle or trailer.
- (3) Subsection (2) does not exclude any other defence provided by law.

25. Proceedings in respect of owner onus liability

- (1) A defendant is not entitled to rely on a statutory defence unless, within 21 days after being served with a complaint and summons relating to the offence, he or she gives to the clerk of the court specified in the summons –
- (a) written notice of his or her intention to rely on the statutory defence; and
 - (b) a statutory declaration giving particulars of that defence including, if it is alleged that the motor vehicle or trailer was in the charge of another person or that the offence was committed by another

Litter Act 2007
Act No. of

s. 26

Part 3 – Prohibition of Littering

person, particulars, so far as known to the defendant, of the name and address of that other person.

- (2) Subsection (1) does not apply to a defendant who has previously provided a statutory declaration under subsection (2) of section 28 giving the information required by that subsection.
- (3) Proceedings must not be heard in respect of an offence arising under section 24 unless the defendant was, at the time of being served with the complaint and summons, notified in writing of the provisions of that section and this section.
- (4) A complaint and summons in any such proceedings is to contain an address at which a notice under subsection (1) may be lodged.
- (5) Where a penalty has been imposed on, or recovered from, any person in respect of an offence arising under section 24(1), a further penalty is not to be imposed on, or recovered from, any other person in respect of the offence.

26. Evidentiary effect of statutory declaration in proceedings against another person

A statutory declaration given by a registered operator under section 25(1), if produced in any proceedings against the person named in it and in respect of the offence to which it relates, is evidence that –

Litter Act 2007
Act No. of

Part 3 – Prohibition of Littering

s. 27

- (a) the named person was the person in charge of the motor vehicle or trailer at the time when the offence occurred; or
- (b) the named person was a passenger in the motor vehicle at that time.

27. More than one registered operator

- (1) If there are 2 registered operators of a motor vehicle or trailer, proceedings for an offence arising under section 24(1) may be brought against one of those registered operators or against both of them jointly.
- (2) If there are 2 registered operators of a motor vehicle or trailer, a court may find the defendant or each of the defendants guilty of an offence if satisfied that –
 - (a) an offence has been committed; and
 - (b) the defendant has not established a statutory defence.
- (3) If a fine is imposed on 2 registered operators of a motor vehicle or trailer who have been found guilty of an offence against this Act, the total of any fines imposed in respect of that offence is not to exceed the maximum fine that could have been imposed if only one of them had been found guilty of that offence.

Litter Act 2007
Act No. of

s. 28

Part 3 – Prohibition of Littering

28. Infringement notices relating to owner onus offences

(1) An infringement notice for an offence under section 24 may be served on the registered operator of a motor vehicle or trailer –

- (a) at his or her last known place of residence or business; or
- (b) by leaving the infringement notice in or on, or attaching it to, the motor vehicle or trailer.

(2) If the registered operator alleges –

- (a) within 28 days following the service of an infringement notice under subsection (1), if he or she has not been allowed a further period under section 20; or
- (b) within 43 days following the service of the notice, if he or she has been allowed any such further period –

that the offence was committed by another person or that, at the time of the occurrence of the offence –

- (c) the motor vehicle or trailer was being driven or used without the knowledge or consent of the registered operator; or
- (d) the motor vehicle or trailer was in the charge of another person; or

Litter Act 2007
Act No. of

Part 3 – Prohibition of Littering

s. 29

- (e) the registered operator had no right or interest in the motor vehicle or trailer –

the registered operator may provide the authorised officer nominated in the notice with a statutory declaration giving particulars of the allegation and, if it is alleged that the offence was committed by another person, particulars, so far as known to the registered operator, of the name and address of that other person.

- (3) An authorised officer who receives the statutory declaration may withdraw the infringement notice in accordance with section 23.
- (4) A statutory declaration provided under subsection (2) may be given to the relevant clerk of the court for the purposes of section 25(1).

29. Bodies corporate and joint registered operators

- (1) Where an infringement notice is served on a person who is a joint registered operator of a motor vehicle or trailer or on a body corporate –
 - (a) the service is taken to be a demand by an authorised officer under section 46; and
 - (b) the notice is to contain a statement of the obligations of that person or body corporate under that section.
- (2) For the removal of doubt, it is declared that an infringement notice may be served on a body corporate.

Litter Act 2007
Act No. of

s. 30

Part 3 – Prohibition of Littering

30. Exceptions to liability of registered operators

Where an offence against this Act arising from the use, driving, parking, standing or leaving of a motor vehicle has been committed, section 24 does not apply if –

- (a) the motor vehicle is a taxi, luxury hire car or public passenger vehicle; and
- (b) the offence was committed by a passenger; and
- (c) the motor vehicle was being used for the purposes of public transport at the time the offence was committed.

31. Time limit for proceedings arising from owner onus

Where it is alleged in a statutory declaration given under this Part that a named person has committed an offence against this Act, a complaint in respect of that offence may, notwithstanding section 26 of the *Justices Act 1959*, be laid against the named person at any time within 6 months after the date on which the statutory declaration is given.

Division 5 – Removal and prevention of litter

32. Special authority for authorised officers in reserved lands

Where litter has been deposited on any reserved land, the powers conferred by this Division may be exercised by an authorised officer only if so provided in the instrument of his or her appointment.

33. Duty of litterer to remove litter

A person must remove any litter unlawfully deposited by that person if requested to do so by an authorised officer and the removal must be carried out in accordance with any directions given by the authorised officer.

Penalty: Fine not exceeding 50 penalty units.

34. Court may order removal of litter

- (1) If a court convicts a person of an offence against this Act, the court may, instead of or in addition to any other penalty, order the person –
 - (a) to clear away and remove within a specified time the litter deposited by the person or any other litter in or on any place; or
 - (b) order the person to pay an amount representing the reasonable cost of

Litter Act 2007
Act No. of

s. 35

Part 3 – Prohibition of Littering

removal of the litter to the person who, or body which, has the control or management of the land or waters where the litter was deposited by the person convicted.

- (2) An order under subsection (1)(a) may require that the litter is to be cleared away and removed under the supervision of a person nominated by the court and in accordance with any directions given by that person.
- (3) If a person ordered to clear away and remove litter under subsection (1)(a) fails to do so within the specified time in accordance with any directions given under subsection (2), the court may, on the application of the prosecutor, the person appointed as supervisor or any other person or body mentioned in paragraph (b) of subsection (1), make a further order under that paragraph against the person convicted.

35. Litter abatement notices

- (1) If an authorised officer suspects on reasonable grounds that –
 - (a) a person is carrying on any activity that has caused, or is likely to cause, the deposit of litter contrary to section 9; or
 - (b) litter has been deposited in any place contrary to that section or that litter has escaped, or is likely to escape, from any place –

Litter Act 2007
Act No. of

Part 3 – Prohibition of Littering

s. 35

the authorised officer may serve a litter abatement notice on –

- (c) the person carrying out the activity; or
 - (d) the person who deposited the litter; or
 - (e) the owner, occupier or person responsible for the management of the place.
- (2) If an authorised officer suspects on reasonable grounds that litter has escaped, or is likely to escape, from a motor vehicle or trailer, the authorised officer may serve a litter abatement notice on the registered operator of, or person in charge of, the motor vehicle or trailer.
- (3) A litter abatement notice may require the person to do one or more of the following in accordance with any directions given by an authorised officer:
- (a) to refrain from depositing litter contrary to section 9;
 - (b) to ensure that no litter escapes from any place owned or occupied by the person or from the motor vehicle or trailer referred to in subsection (2);
 - (c) to remove the litter;
 - (d) to clean any place that has been affected by the deposit of litter and to restore the place as far as practicable to its former state and condition;

Litter Act 2007
Act No. of

s. 36

Part 3 – Prohibition of Littering

- (e) to carry out any activity in such a manner as to prevent or minimise the deposit of litter;
 - (f) to do, or refrain from doing, any other act, matter or thing so as to ensure that the person does not commit an offence against this Act.
- (4) A person who has been served with a litter abatement notice must comply with any directions specified in the notice.

Penalty: Fine not exceeding 50 penalty units.

- (5) A person who has been served with a litter abatement notice may appeal to the Magistrates Court (Administrative Appeals Division) for a review of the notice under the *Magistrates Court (Administrative Appeals Division) Act 2001*.

36. Form of litter abatement notices

A litter abatement notice –

- (a) is to be in an approved form; and
- (b) is to be signed by the authorised officer giving the notice; and
- (c) is to specify details of the action required to be taken; and
- (d) may specify the time within which the action must be taken; and

Litter Act 2007
Act No. of

Part 3 – Prohibition of Littering

s. 37

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- (e) is to state that the notice may be amended or revoked under section 37; and
 - (f) is to state the penalty for failure to comply with the notice and the liability to pay costs under section 38; and
 - (g) is to state the right of the person to whom the notice applies to seek a review of the notice in the Magistrates Court (Administrative Appeals Division) under section 35(5).

37. Amendment or revocation of litter abatement notices

An authorised officer may amend or revoke a litter abatement notice by serving a written notice of amendment or revocation in an approved form on the person to whom the litter abatement notice applies.

38. Recovery of costs arising from litter abatement notices

- (1) If a person fails to remove litter or clear or restore a place in accordance with a litter abatement notice, the Crown or, as the case may be, a council, statutory authority or other body which has the control or management of the place where the offence occurred may cause those measures to be taken.

Litter Act 2007
Act No. of

s. 39

Part 3 – Prohibition of Littering

- (2) The reasonable costs incurred in carrying out those measures –
 - (a) are payable by the person specified in the abatement notice; and
 - (b) are recoverable as a debt in a court of competent jurisdiction.

Division 6 – Reporting of offences by public

39. Reports of offences

- (1) A person who sees another person committing an offence under this Part may inform the Secretary of the offence by sending a signed written report containing –
 - (a) the date, time and place of the offence, so far as is known to the first-mentioned person; and
 - (b) details of the nature of the litter and of the offence; and
 - (c) any evidence of the identity of the person who committed the offence or evidence which may lead to the identification of that person.
- (2) On the Secretary receiving a report under subsection (1), an infringement notice may be issued to, or proceedings may be taken against, the person seen committing the offence or the person taken to have committed the offence.

Litter Act 2007
Act No. of

Part 3 – Prohibition of Littering

s. 40

40. False or misleading statements

- (1) A person must not, in giving any information to the Secretary under this Act –
 - (a) make a statement knowing it to be false or misleading; or
 - (b) omit any matter from a statement knowing that without that matter the statement is misleading.
- (2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a penalty not exceeding 10 penalty units.
- (3) This section does not restrict the operation of any other Act or rule of law.

PART 4 – POWERS OF AUTHORISED OFFICERS

41. Powers of authorised officers

- (1) Subject to this Division, an authorised officer may –
- (a) enter and inspect any place for any reasonable purpose connected with the administration or enforcement of this Act; and
 - (b) require any person to produce any documents, including a written record that reproduces in an understandable form information stored by computer, microfilm or other process, as reasonably required in connection with the administration or enforcement of this Act; and
 - (c) examine, copy or take extracts from any documents or information so produced or require a person to provide a copy of any such document or information; and
 - (d) take photographs, films and audio, video or other recordings as reasonably required in connection with the administration or enforcement of this Act; and
 - (e) give any directions reasonably required in connection with the exercise of a power conferred by this subsection or

Litter Act 2007
Act No. of

Part 4 – Powers of Authorised Officers

s. 41

otherwise in connection with the
administration or enforcement of this
Act.

- (2) An authorised officer may not exercise the power of entry under this section except where –
- (a) the occupier of the place consents to the entry; or
 - (b) the entry is authorised by a warrant; or
 - (c) in the case of a public place, the entry is made when the place is open to the public; or
 - (d) the entry is made when the officer believes on reasonable grounds that an offence against this Act has been, or is being, carried out and the place is open for conduct of business or otherwise open for entry.
- (3) If an entry under this section is made otherwise than under the authority of a warrant, the entry must be made at a time that is reasonable.
- (4) In the exercise of powers under this Act, an authorised officer may be assisted by such persons as he or she considers necessary in the circumstances.
- (5) An authorised person may apply to a justice for a warrant to enter any place to enforce any provision of this Act.

Litter Act 2007
Act No. of

s. 42

Part 4 – Powers of Authorised Officers

- (6) A warrant continues in force until the purpose for which it was granted is satisfied.

42. Obstruction of authorised officers

A person must not obstruct, hinder, delay, impede or threaten an authorised officer in performing any function or exercising any power under this Act.

Penalty: Fine not exceeding 10 penalty units.

43. Names and addresses of offenders

- (1) If an authorised officer has reasonable grounds for believing that a person has committed, or is committing, an offence against this Act, he or she may require that person to state his or her name and the address of his or her place of residence.
- (2) A person must not fail or refuse to comply with a requirement under subsection (1) or, in response to any such requirement, state a name or address that is false in a material particular.

Penalty: Fine not exceeding 10 penalty units.

44. Powers of police officers

A police officer making a requirement under section 43(1) may arrest, without warrant, a person who fails or refuses to comply with that

Litter Act 2007
Act No. of

Part 4 – Powers of Authorised Officers

s. 45

requirement or who, in response to the requirement, gives a name or address that the police officer has reason to believe is false.

45. Direction by police officers in connection with offences

- (1) A police officer may give a person such directions as he or she considers necessary or expedient if he or she –
 - (a) finds the person committing an offence against this Act; or
 - (b) reasonably believes that the person has committed, or is about to commit, an offence against this Act.
- (2) A person must obey a direction given to him or her under this section whether or not the person may contravene a provision of the Road Rules by obeying the direction.

Penalty: Fine not exceeding 10 penalty units.

46. Facilitation of proof of certain matters

Where a person is alleged to have committed an offence against this Act as the registered operator of a vehicle –

- (a) the registered operator of the vehicle, on demand by an authorised officer, must give to the authorised officer all

Litter Act 2007
Act No. of

s. 47

Part 4 – Powers of Authorised Officers

information that the authorised officer may require as to the identity and whereabouts of the driver of the vehicle at any time relevant to the offence; and

- (b) if any information so required is not known to the registered operator, he or she must with all reasonable diligence (proof of which lies on him or her) take steps to obtain the information, and must report to the authorised officer within 7 days, or sooner if practicable, the result of the steps so taken; and
- (c) on demand being made to a person by an authorised officer for any information within that person's knowledge as to the identity of the driver, or as to any fact which may lead to the identification of the driver, the person must give that information to the authorised officer.

Penalty: Fine not exceeding 10 penalty units.

47. Evidence of identity and authority

- (1) When exercising powers under this Act, an authorised officer must produce evidence of his or her identity and authority if reasonably required to do so by any person.
- (2) It is not necessary for a police officer exercising any power as an authorised officer under this Act to produce any authority other than that required as a police officer.

PART 5 – LITTER MANAGEMENT FUND

48. Litter Management Fund

- (1) An account, which is to be known as the Litter Management Fund, is to be established within the Special Deposits and Trust Fund for the purposes of this Act.
- (2) Any payments in respect of a prescribed penalty or by way of fine for an offence against this Act –
 - (a) are payable to a council if the notice was served, or proceedings were instituted, by the council or an authorised officer appointed under section 8; or
 - (b) in any other case, are payable to the Litter Management Fund unless otherwise directed or approved by the Treasurer.
- (3) There may be paid from the Fund any money that is required –
 - (a) for the payment of the cost of establishing and maintaining a service to enable members of the public to report offences against this Act; and
 - (b) for the payment or discharge of any other expenses, charges or obligations incurred or undertaken by the Secretary or an authorised officer in the performance of

Litter Act 2007
Act No. of

s. 48

Part 5 – Litter Management Fund

his or her functions or the exercise of his
or her powers under this Act; and

- (c) for any other purpose expedient to give
effect to the objects of this Act.

PART 6 – MISCELLANEOUS AND SUPPLEMENTAL

49. Protection from liability

Any act, matter or thing done or omitted to be done in good faith by –

- (a) the Secretary, or a person acting under the direction or authority of the Secretary; or
- (b) an instrumentality of the Crown; or
- (c) a council; or
- (d) an authorised officer –

in the administration or intended administration of this Act, or in the exercise or performance or intended exercise or performance of any powers, functions or duties under this Act does not subject the Secretary, instrumentality, council or other person to any liability (whether civil or criminal) in respect of that act, matter or thing.

50. Delegations of functions, &c., by Secretary

The Secretary may, in writing, delegate to a body, a State Service officer or State Service employee all or any of the powers, duties and functions of the Secretary under this Act other than this power of delegation and the powers conferred by section 7.

51. Evidentiary provision

In any proceedings for an offence against this Act, an averment in a complaint that a specified person was the registered operator of a motor vehicle or trailer at any specified time is evidence of that fact.

52. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may prescribe offences for the purposes of this Act and the penalty applicable to each such offence.
- (3) The regulations may –
 - (a) be of general or limited application; and
 - (b) differ according to differences in time, place or circumstance; and
 - (c) provide for any matter to be approved by the Secretary.
- (4) The regulations may provide that a person who contravenes any provision of the regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding 50 penalty units.

Litter Act 2007
Act No. of

Part 6 – Miscellaneous and Supplemental

s. 53

53. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Tourism, Arts and the Environment; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Tourism, Arts and the Environment.

54. Consequential Amendments

The legislation specified in Schedule 1 is amended as specified in that Schedule.

55. Legislation repealed

The legislation specified in Schedule 2 is repealed.

Litter Act 2007
Act No. of

sch. 1

SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS

Section 54

Crown Lands Act 1976

- 1.** Section 46(1) is amended as follows:
 - (a) by omitting from paragraph (f) “fire; or” and substituting “fire.”;
 - (b) by omitting paragraph (g).

Litter Act 2007
Act No. of

sch. 2

SCHEDULE 2 – LEGISLATION REPEALED

Section 55

Litter Act 1973 (No. 13 of 1973)