

LITTER AMENDMENT BILL 2010

Fact Sheet

This Bill amends the *Litter Act 2007*. The Act, fully commenced in January 2008. The Act prescribes three levels of littering offences and penalties, depending on the amount littered. Single items such as cigarette butts and bus tickets, amounts of litter less than 55 litres in volume and amounts greater than 55 litres in volume attract progressively higher penalties. Bill-posting, placement of documents on vehicles and insecure delivery of unsolicited documents are also offences under the Act. Infringement notices may be issued for offences or they be prosecuted in court.

Motor vehicle registered operators are deemed liable for littering from their vehicles where the identity of the person committing the offence is unknown. A defence is available if the registered operator can establish that the offence was committed by another person, the motor vehicle was being driven by another person, the vehicle was stolen or the operator no longer had a legal interest in the vehicle. Registered operators are able to complete a statutory declaration to establish their defence, in a similar manner to traffic offences.

The public may report littering offences. Offences, particularly those relating to motor vehicles, are reported through the Litter Hotline and Litter Reporting System that is operated by the EPA Division of the Department of Primary Industries, Parks, Water and Environment. Where a report contains sufficient information to establish that an offence is likely to have been committed an infringement notice is usually issued. Where the offence relates to a motor vehicle the infringement notice is issued to the registered operator of the vehicle.

Amendments to the Litter Act are required to improve the way the Act operates and to remove legal doubt about some clauses. Operational experience and legal advice has identified the need for various amendments. Urgent amendments were made last year to remove doubt about the validity of infringement notices issued under the Act, but other matters need to be attended to.

The Bill has been assessed under the Legislation Review Program and has been found not to restrict competition or have a significant negative impact on business.

The main provisions of the Bill are as follows.

- Responsibility for implementation and enforcement of the Act will be transferred from the Secretary of the agency to the Director of the EPA.
- Registered owners of motor vessels will be liable for littering from their vessels. These provisions will be similar to those currently applying to the registered operators of motor vehicles.
- The registered operator of a taxi or bus or the registered owner of a commercial passenger vessel will be able to provide a statutory declaration that a passenger was responsible for an alleged littering offence and that the vehicle or vessel was being used for the purposes of public transport at the time of the offence.

- A police officer will be able to give an instruction to the driver of a vehicle or operator of a motor vessel. Police may presently give an instruction to the person who actually committed an offence, but not the driver unless it is the same person.
- A special exemption provision will be placed in the Act. The EPA Director will be able to exempt a person from any provision of the Act, where appropriate.
- The time for instituting proceedings after an offence (either an infringement notice or court proceedings) will be increased from six months to 12 months.