

TASMANIA

LITTER AMENDMENT BILL 2018

CONTENTS

1. Short title
2. Commencement
3. Principal Act
4. Section 9 amended (Littering offences)
5. Sections 9A and 9B inserted
 - 9A. Offence relating to recording camera
 - 9B. Additional penalties for certain offences under section 9
6. Section 35 amended (Litter abatement notices)
7. Section 51 amended (Evidentiary provision)
8. Repeal of Act

LITTER AMENDMENT BILL 2018

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
1 August 2019

*(Brought in by the Minister for Environment, the Honourable
Elise Nicole Archer)*

A BILL FOR

An Act to amend the *Litter Act 2007*

Be it enacted by Her 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:

1. Short title

This Act may be cited as the *Litter Amendment Act 2018*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Principal Act

In this Act, the *Litter Act 2007** is referred to as the Principal Act.

*No. 38 of 2007

Litter Amendment Act 2018
Act No. of 2018

s. 4

4. Section 9 amended (Littering offences)

Section 9 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (c) of the penalty under subsection (1) “litres” and substituting “litres, but does not exceed 2 cubic metres,”;
- (b) by omitting from paragraph (c) of the penalty under subsection (1) “units.” and substituting “units; or”;
- (c) by inserting the following paragraphs after paragraph (c) in the penalty under subsection (1):
 - (d) if the litter exceeds 2 cubic metres, but does not exceed 10 cubic metres, in volume –
 - (i) 100 penalty units in the case of an individual; or
 - (ii) 200 penalty units in the case of a body corporate; or
 - (e) if the litter exceeds 10 cubic metres in volume –
 - (i) 200 penalty units in the case of an individual; or
 - (ii) 500 penalty units in the case of a body corporate.

Litter Amendment Act 2018
Act No. of 2018

s. 4

- (d) by omitting from paragraph (c) of the penalty under subsection (2) “litres” and substituting “litres, but does not exceed 2 cubic metres,”;
- (e) by omitting from paragraph (c) of the penalty under subsection (2) “units.” and substituting “units; or”;
- (f) by inserting the following paragraphs after paragraph (c) in the penalty under subsection (2):
 - (d) if the litter exceeds 2 cubic metres, but does not exceed 10 cubic metres, in volume –
 - (i) 100 penalty units in the case of an individual; or
 - (ii) 200 penalty units in the case of a body corporate; or
 - (e) if the litter exceeds 10 cubic metres in volume –
 - (i) 200 penalty units in the case of an individual; or
 - (ii) 500 penalty units in the case of a body corporate.
- (g) by omitting from paragraph (b) of the penalty under subsection (3) “litres” and substituting “litres, but does not exceed 2 cubic metres,”;

Litter Amendment Act 2018
Act No. of 2018

s. 4

- (h) by omitting from paragraph (b) of the penalty under subsection (3) “units.” and substituting “units; or”;
- (i) by inserting the following paragraphs after paragraph (b) in the penalty under subsection (3):
 - (c) if the litter exceeds 2 cubic metres, but does not exceed 10 cubic metres, in volume –
 - (i) 100 penalty units in the case of an individual; or
 - (ii) 200 penalty units in the case of a body corporate; or
 - (d) if the litter exceeds 10 cubic metres in volume –
 - (i) 200 penalty units in the case of an individual; or
 - (ii) 500 penalty units in the case of a body corporate.
- (j) by omitting from paragraph (c) of the penalty under subsection (4) “litres” and substituting “litres, but does not exceed 2 cubic metres,”;
- (k) by omitting from paragraph (c) of the penalty under subsection (4) “units.” and substituting “units; or”;

Litter Amendment Act 2018
Act No. of 2018

s. 4

- (l) by inserting the following paragraphs after paragraph (c) in the penalty under subsection (4):
 - (d) if the litter exceeds 2 cubic metres, but does not exceed 10 cubic metres, in volume –
 - (i) 100 penalty units in the case of an individual; or
 - (ii) 200 penalty units in the case of a body corporate; or
 - (e) if the litter exceeds 10 cubic metres in volume –
 - (i) 200 penalty units in the case of an individual; or
 - (ii) 500 penalty units in the case of a body corporate.
- (m) by omitting from paragraph (c) of the penalty under subsection (5) “litres” and substituting “litres, but does not exceed 2 cubic metres,”;
- (n) by omitting from paragraph (c) of the penalty under subsection (5) “units.” and substituting “units; or”;
- (o) by inserting the following paragraphs after paragraph (c) in the penalty under subsection (5):

Litter Amendment Act 2018
Act No. of 2018

s. 5

- (d) if the litter exceeds 2 cubic metres, but does not exceed 10 cubic metres, in volume –
 - (i) 100 penalty units in the case of an individual; or
 - (ii) 200 penalty units in the case of a body corporate; or
- (e) if the litter exceeds 10 cubic metres in volume –
 - (i) 200 penalty units in the case of an individual; or
 - (ii) 500 penalty units in the case of a body corporate.

5. Sections 9A and 9B inserted

After section 9 of the Principal Act, the following sections are inserted in Division 1:

9A. Offence relating to recording camera

- (1) A person must not destroy, damage, remove or in any other way interfere with the operation of a relevant recording camera.

Penalty: Fine not exceeding –

- (a) 50 penalty units in the case of an individual; or

- (b) 100 penalty units in the case of a body corporate.
- (2) Subsection (1) does not apply to an authorised officer acting in his or her capacity as an authorised officer or another person acting under the instruction or direction of such an authorised officer.
- (3) In this section –
- relevant recording camera* means a device –
- (a) that is capable of taking photographs or of making a video recording or audio-video recording; and
- (b) that is set up by an authorised officer under section 41(1)(d) for a purpose related to the detection and investigation of unauthorised or unlawful depositing of litter.

9B. Additional penalties for certain offences under section 9

If a person is found guilty of an offence under section 9(1), (2), (3), (4) or (5) in relation to the depositing of litter that exceeds 2 cubic metres in volume, the court, in addition to or in substitution for any other penalty it may impose, may do one or both of the following:

Litter Amendment Act 2018
Act No. of 2018

s. 6

- (a) order the forfeiture of any vehicle, vessel and trailer used in, or for the purposes of, the commission of the offence;
- (b) order the defendant to pay a special penalty of an amount that the court is satisfied is equal to any monetary benefit obtained by, or accrued or accruing to, the defendant as a result of committing the offence.

6. Section 35 amended (Litter abatement notices)

Section 35(4) of the Principal Act is amended by omitting the penalty and substituting the following penalty:

Penalty: Fine not exceeding –

- (a) 50 penalty units in the case of an individual; or
- (b) 100 penalty units in the case of a body corporate.

7. Section 51 amended (Evidentiary provision)

Section 51 of the Principal Act is amended as follows:

- (a) by numbering the text of the section as subsection (1);

Litter Amendment Act 2018
Act No. of 2018

s. 8

(b) by inserting the following subsection after subsection (1):

(2) If in any proceeding for an offence against this Act an authorised officer gives his or her assessment of a quantity of litter deposited in a place or receptacle, that assessment, in the absence of evidence to the contrary, is taken to be evidence of the quantity of litter deposited.

8. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.