

Law of the Land: Waste Management

There are several legislative provisions regulating (directly or indirectly) the disposal of waste in Tasmania:

- *Environmental Management and Pollution Control Act 1994*:
 - *Environmental Management and Pollution Control (Waste Management) Regulations 2010* (the **Waste Regulations**)
 - *Environmental Management and Pollution Control (Distributed Atmospheric Emissions) Regulations 2018* (the **Emissions Regulations**)
- *Litter Act 2007*
- *Land Use Planning and Approvals Act 1993*
- *Local Government Act 1993*

Environmental harm

Under the *Environmental Management and Pollution Control Act 1994* (**EMPCA**), it is an offence to cause environmental harm or environmental nuisance without an authority to do so. Environmental harm is broadly defined to include "any adverse effect on the environment", and could capture unauthorised disposal of waste materials (particularly in large quantities or in areas likely to pollute waterways).

EMPCA also imposes a general environmental duty to employ best practice measures to minimise environmental harm. While not directly enforceable (that is, you cannot be charged for failing to comply with the general environmental duty), compliance with the duty will provide a defence to many charges for environmental offences. Therefore, it is advisable for all farmers to take steps to manage the way that they collect, store, use and dispose of waste, and to consider options to minimise the amount of waste produced by their farming activities.

Waste Regulations

In addition to the general requirement to avoid environmental harm, regulations under EMPCA apply to the management of waste.

- Under regulation 9(1) of the Waste Regulations, a farmer must not allow land to be used for the disposal of general waste unless:
 - The waste is limited to uncontaminated soil, rocks and domestic, green or organic waste; or
 - The disposal is approved under a planning permit or Environment Protection Notice issued by Council or the Director of the EPA (see below); or
 - The disposal is specifically approved by the Director of the EPA under r.12(3) of the Waste Regulations; or
 - The disposal is carried out in accordance with an approved management method. To date the only management method approved in relation to general waste relates to the [Approved Management Method for Biosolids Reuse 2006](#) (note, this also covers biosolids that are controlled wastes).

If general waste is disposed of without the necessary approvals, a farmer could face a **fine of up to \$8,150**. A local Council can also issue an infringement notice ('on-the-spot fine') or an Environment Protection Notice requiring the waste to be removed.

- Under regulation 6(1) of the Waste Regulations, a farmer must not receive, store, reuse, recycle, incinerate, treat or dispose of controlled waste unless:
 - The activity is approved under a planning permit or Environment Protection Notice issued by Council or the Director of the EPA; or
 - The activity is specifically approved by the EPA under r.12(3) of the Waste Regulations; or
 - The activity is carried out in accordance with an approved management method. To date only three management methods have been approved for controlled wastes:
 - [Approved Management Method for Biosolids Reuse 2006](#)
 - [Approved Management Method for Clinical and Related Waste 2007](#)
 - [Approved Management Method for Storage and Reuse of Waste Tyres 2017](#)
 - The waste is used on domestic premises for "usual domestic purposes" or is being stored only while awaiting transfer to a waste facility.

If controlled waste is stored, used, treated, disposed of etc without the necessary approvals, and in a manner that is likely to cause environmental harm, promote harmful growths, or adversely affects / contaminates land, soil or water a farmer could face a **fine up to \$8,150**.

A local Council can also issue an infringement notice ('on-the-spot fine') or an Environment Protection Notice requiring the controlled waste to be removed, and remediation activities to be carried out.

"Controlled waste" includes poisons, agricultural and veterinary chemicals, dangerous substances (such as asbestos), sewage wastes and used tyres.

If unsure whether a waste is a controlled waste or not, a farmer must either treat the waste as if it was controlled or have the waste analysed by a NATA accredited laboratory.

- If a farmer produces, receives, stores, reuses, recycles, incinerates, treats or disposes of controlled waste in a manner that is likely to result in the controlled waste leaking or spilling into the environment or otherwise causing environmental harm, the farmer can be **fined up to \$16,300**.

The Director of the EPA can also issue a notice requiring the waste to be removed to an approved facility and remediation to be carried out.

For more information regarding the management of controlled waste, [contact the EPA](#).

Emissions Regulations

"Disposal of general waste" for the purposes of the Waste Regulations does not include incineration. That is, the Waste Regulations do not regulate to the burning or incineration of general waste. However, burning is regulated by the Emissions Regulations.

- Regulation 11 prohibits burning waste on land less than 2,000m² without a permit from the local council or the Tasmania Fire Service, unless a council by-law allows for such burning to occur without a permit.

Waste can be burnt on lots larger than 2,000m² without approval, provided the waste is limited to unpainted / untreated wood, vegetation and vegetative waste, paper, charcoal and peat.

Burning of plastic or other synthetic materials is not authorised by the Emissions Regulations on any property of any size. If waste is burned contrary to the Emissions Regulations, a farmer could face a **fine up to \$8,150**.

Litter Act

Under the *Litter Act 2007*, it is an offence to deposit litter on any private land or water (other than inside a building) in such a way that the litter is likely to escape into a public place or another private residence. "Litter" includes rubbish such as glass, metal, plastic, fabric, wood, food scraps, abandoned vehicles, construction material and garden clippings.

Depending on the nature and scale of the litter, farmers could face a **fine between \$815 and \$8,150**.

To establish a defence to a littering charge, a farmer will need to show that the disposal of the litter was unavoidable or accidental, and reasonable steps were taken to manage the risks of the litter escaping to other properties.

Planning approvals

Rural land may be approved for use as a landfill, waste transfer station or other waste facility, or resource recovery (such as application of biosolids). The approvals required for such uses (and whether the application will be subject to public comment) will depend on the planning scheme applying to the land. Contact your local Council to discuss the permit requirements for your land.

If the use is a "Level 2 activity" under EMPCA, such as storage of more than 100 tonnes of waste or applying more than 50 tonnes of biosolids per hectare, the application may need to be assessed by the EPA.

Farmers must comply with any permit conditions relating to waste management. If permit conditions are not complied with, council may issue an infringement notice or an enforcement notice or may amend, suspend or cancel the permit.

Local government – nuisance

Under the *Local Government Act 1993*, the general manager of a council may issue an abatement notice to a landowner if the general manager is satisfied that any waste deposited on the property is causing a nuisance because:

- The waste is likely to be a fire risk; or
- The waste is likely to cause a risk to public health; or
- The waste gives rise to excessive pollution; or
- The waste constitutes "an unsightly article or rubbish".

The abatement notice will set out the actions that the landowner will be required to take to deal with the nuisance, and the timeframe for taking that action. A farmer who does not comply with an abatement notice could face a **fine up to \$3,260**.

If a farmer has failed to comply with a notice for an unreasonable period of time, the local council can enter the property and take the action itself (for example, by removing the waste). The local council can recover any costs involved in doing this work from the farmer.

Recycling waste

In Tasmania, [Envorinex](#) offers a recycling service for waste silage wrap. Collection points are currently limited to northern Tasmania, but you can contact the company to discuss your situation and they may be able to identify a local collection option.

For more information regarding waste management obligations, contact EDO Tasmania on (03) 6223 2770 or edotas@edotas.org.au