



Tuvalu

WASTE MANAGEMENT REGULATIONS

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Tuvalu

WASTE MANAGEMENT REGULATIONS¹

MADE UNDER SECTION 11 OF THE WASTE MANAGEMENT ACT

Commencement [4 June 2018]

1 Short title

- (1) These Regulations may be cited as the Waste Management Regulations.
- (2) These Regulations shall come into effect on the date that they are made.

2 Interpretation

In these Regulations, unless the context otherwise requires:

“**the Act**” means the Waste Management Act;

“**authorised dumping site**” means any waste dump or waste disposal facility operated by a designated waste management operator in accordance with the Waste Management Act;

“**corporation**” includes any commercial business;

“**Department**” means the Department of Waste Management;

“**deposit**”, in relation to litter or waste, includes:

- (a) casting, placing, throwing or dropping; and
- (b) allowing litter or waste to be cast, thrown, dropped or to escape from any motor vehicle, trailer, ship, boat, vessel or craft;

“**designated waste management operator**” means any designated waste management operator under the Waste Management Act, and includes the Department;

“**Enforcement Officer**” means person appointed and empowered as an enforcement officer appointed under the Act;

“hazardous waste” means:

- (a) any wastes which are, or which have the potential to be, toxic or poisonous, or which may cause injury or damage to human health or to the environment;
- (b) all waste oils;
- (c) any specific substance, object or thing determined under any law to be a hazardous waste; and
- (d) any other matter or thing deemed under international conventions applicable to Tuvalu to be hazardous wastes, or to have the characteristics of hazardous wastes;

“litter” includes refuse, rubbish, paper, cardboard, bottles, cans, glass, metal, garbage, debris, dirt, rubble, ballast, stones, earth, waste matter, or any other thing of a like nature, which are:

- (a) discarded as waste; or
- (b) kept in any place for no purpose other than as waste; or
- (c) deemed under any law to be waste;

“ozone depleting substance” means all substances prohibited or regulated as controlled substances under the Vienna Convention for the Protection of the Ozone Layer from time to time, including the chemicals prescribed under the Convention being types of chlorofluorocarbons, halons, carbon tetrachlorides, methyl chloroforms, hydrobromofluorocarbons, hydrochlorofluorocarbons and methyl bromide;

“persistent organic pollutant” means any of the chemicals or substances regulated under the Stockholm Convention from time to time, including any substance or thing which is or contains aldrin, chlordane, DDT, dieldrin, endrin, heptachlor, mirex and toxaphene;

“pollution” means the introduction by persons, directly or indirectly, of substances or things into the environment which may result in harm to living resources and ecosystems, and hazards to human health, including causing:

- (a) detriment to or degradation of the environment; or
- (b) detriment to any beneficial use –

and includes “pollution” as prescribed by any law;

“public place” includes:

- (a) every road, street, private roadway, footpath, access way, drain, service lane, thoroughfare, wharf, pier, jetty and airport to which the public has access;
- (b) any park and reserve, and any place of public recreation to which the public has access, whether with or without payment of any fee;
- (c) any beach or foreshore, mangrove area, swamp or any other similar place to which the public has access; and

- (d) any other place whether public or private in the open air to which the public has access, whether with or without payment of any fee -

but does not include any authorised dumping site, or any rubbish bin or receptacle in any public place;

“Stockholm Convention” means the Stockholm Convention on Persistent Organic Pollutants (Stockholm Convention on POPs), Stockholm, 2001;

“waste related conventions applying to Tuvalu” includes:

- (a) the Stockholm Convention;
- (b) the Waigani Convention: and
- (c) any other international convention relating to the management of wastes which Tuvalu is a party to and is added to the Schedule of the Act in accordance with section 32 of the Act, from time to time; and

“wastes” has the same meaning as in the Act, and includes all things declared or deemed to be wastes under any law.

PART II - LITTER CONTROL MEASURES

3 Offence to litter

- (1) Any person who drops, deposits or dumps litter:
 - (a) in a public place; or
 - (b) on land belonging to another person –commits an offence and shall be liable upon conviction to a fine not exceeding \$50.
- (2) This regulation does not apply to employees and contractors of designated waste management operators who are lawfully exercising their duties and powers under the Waste Management Act.

4 Duty to keep land and premises clean

- (1) Every owner and occupier of land or premises must keep their land and premises free from litter and other waste which may become litter.
- (2) Any person in breach of this regulation may be served with a notice under regulation 15 and Schedule 1.

PART III - WASTE RELATED OFFENCES

5 Offence to dump waste

Any person, who deposits, dumps or discharges any waste, or who causes waste to be deposited, dumped or discharged on any place, commits an offence and shall be liable upon conviction to a fine

- (a) not exceeding \$500, in the case of an individual; or
- (b) not exceeding \$1,000, in the case of a corporation, or an individual who has committed an offence against this regulation on a previous occasion.

6 Offence to dump hazardous waste

Any person who, deposits, dumps or discharges any hazardous waste, or who causes hazardous waste to be deposited, dumped or discharged on any place, commits an offence and shall be liable upon conviction:

- (a) in the case of an individual - to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months, or both; or
- (b) in the case of a corporation, or an individual who has committed an offence against this regulation on a previous occasion - to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years, or both.

7 Dumping wastes which cause pollution

- (1) Any person who, deposits or dumps waste at a place other than an authorised dumping site, and such waste causes pollution to a public area or to land belonging to the government or to another person, commits an offence and shall be liable upon conviction:
 - (a) in the case of an individual - to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 3 months, or both; or
 - (b) in the case of a corporation, or an individual who has committed an offence against this regulation on a previous occasion - not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months, or both.
- (2) The dumping or disposal of dead animals in a place is deemed to be an act which causes pollution for the purposes of sub-regulation (1).

8 Offences relating to waste bins²

- (1) Any person who dumps waste into a waste receptacle that is provided at a place only for the purpose of receiving small quantities of litter or other

specified wastes, commits an offence and shall be liable upon conviction to a fine:

- (a) not exceeding \$100, in the case of an individual; or
 - (b) not exceeding \$500, in the case of a corporation, or an individual who has committed an offence against this regulation on a previous occasion.
- (2) Any person who steals, damages or sets fire to a waste receptacle that is provided at a place for the purpose of receiving litter and waste, commits an offence and shall be liable upon conviction to a fine not exceeding \$500.

8A Offence relating to recycling and composting of waste³

Any person who fails to comply with the segregation of waste as prescribed under section 28 of the Act, commits an offence and shall be liable upon conviction to a fine of not more than \$100.

9 Restrictions on burning off and other activities

- (1) No person shall burn litter or other wastes:
- (a) at any time or in any manner which breaches a by-law made by a Kaupule; or
 - (b) in a manner or place which causes any nuisance to any person; or
 - (c) which causes the spread of fire in any manner so as to burn any area of land, any structure or any living vegetation.
- (2) Litter and wastes may not be deposited or dumped:
- (a) in or near water sources;
 - (b) on beaches or foreshores;
 - (c) in mangroves or swamps;
 - (d) in the sea; or
 - (e) in any other way so as to cause the risk of harm to human health or to the environment.
- (3) This regulation may be enforced by the giving of a notice in Form 1 to any person who appears to have breached regulation (1) or who has deposited or dumped the litter or waste, or to have caused litter or wastes to be deposited or dumped.
- (4) A person who –
- (a) breaches sub-regulation (1); or
 - (b) fails to comply with a notice given under sub-regulation (3) –
- commits an offence and shall be liable upon conviction to a fine not exceeding \$200.

10 Offence to burn noxious waste

- (1) For the purposes of this regulation “noxious waste” includes waste:
 - (a) which contains plastics, rubber, polystyrene foam, waste oil which emits smoke or fumes; or
 - (b) which creates an unintentional persistent organic pollutant as provided for in the Stockholm Convention.
- (2) Any person who intentionally burns noxious waste commits an offence and shall be liable upon conviction to a fine:
 - (a) not exceeding \$1,000 in the case of an individual; or
 - (b) not exceeding \$5,000 in the case of a corporation, or an individual who has committed an offence against this regulation on a previous occasion.

11 Offence to burn hazardous waste

A person who intentionally burns hazardous waste commits an offence and shall be liable upon conviction:

- (a) in the case of an individual - to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months, or both; or
- (b) in the case of a corporation, or an individual who has committed an offence against this regulation on a previous occasion - to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years, or both.

12 Certain waste not to be used for land filling or reclamation

- (1) No waste comprising:
 - (a) electrical or computer goods or electrical fittings of any nature;
 - (b) any appliances in the form of refrigerators of any type, ovens and stoves or washing machines and dryers; or
 - (c) any other goods, substance or thing restricted under the provisions of the Act –may be used for the purposes of filling land, or for land reclamation, other than at an authorised dumping site.
- (2) Any person who breaches sub-regulation (1) commits an offence and shall be liable upon conviction to a fine:
 - (a) not exceeding \$1,000, in the case of an individual; or
 - (b) not exceeding \$5,000, in the case of a corporation, or an individual who has committed an offence against this regulation on a previous occasion.

13 Prescribed hazardous wastes

- (1) For the purposes of this regulation “prescribed hazardous waste” includes:
 - (a) all ozone depleting substances;
 - (b) all persistent organic pollutants;
 - (c) asbestos, or any product containing asbestos; and
 - (d) any other type of waste determined in accordance with any law to be a hazardous waste.
- (2) Any person who:
 - (a) disposes of or dumps any prescribed hazardous waste at an authorised dumping site without disclosing its nature to an officer of the designated waste management operator managing the dumpsite;
 - (b) provides any false information to a designated waste management operator in relation to prescribed hazardous waste being disposed of or dumped at an authorised dumping site; or
 - (c) fails to store, transport or safely dispose of any prescribed hazardous waste in a manner required by law or which is consistent with any international waste related convention applying to Tuvalu -commits an offence and shall be liable upon conviction —
 - (i) in the case of an individual - to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 12 months, or both; or
 - (ii) in the case of a corporation, or an individual who has committed an offence against this regulation on a previous occasion - to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years, or both.

PART IV - ENFORCEMENT PROVISIONS**14 Officers to enforce these Regulations**

- (1) These regulations may be enforced by any Enforcement Officer.
- (2) Enforcement Officers have authority to serve any notice under these Regulations or under the Act, in relation to the enforcement of these Regulations.

15 Notice to cease certain activities concerning waste

- (1) An Enforcement Officer may issue a notice in the form prescribed in Schedule 1 requiring a person who appears to have breached these Regulations to refrain from doing any act specified in the notice, or to take any action in relation to litter or waste which is stipulated in the notice.

- (2) A notice issued under sub-regulation (1) may specify that certain waste are not to be used for land filling or reclamation and may require that specific waste be removed from any land which has been, or is being, filled or reclaimed.
- (3) Any person who fails to comply with a notice, or any requirement stated on a notice, issued under this regulation commits an offence and shall be liable upon conviction to a fine:
 - (a) not exceeding \$1,000, in the case of an individual; or
 - (b) not exceeding \$5,000, in the case of a corporation, or an individual who has committed an offence against this regulation on a previous occasion.

16 Remedial action and cost recovery

If a person breaches regulation 4 or fails to comply with a notice issued under regulation 15, an Enforcement Officer or a designated waste management operator may arrange for the waste to be removed and disposed of, and the costs incurred may be recovered from the person who is in breach of these Regulations, either as a civil debt or pursuant to an order made by a court at the time of convicting the person of an offence under these Regulations.

PART V - PENALTY NOTICES

17 Penalty notice

- (1) When an Enforcement Officer detects the commission of an offence which is listed in column A of the table in Schedule 2, the officer has authority to issue to the person committing such offence a Penalty Notice in the form specified in Schedule 3.
- (2) When an Enforcement Officer detects the commission of an offence which is listed in column A of the table in Schedule 2, the officer has authority to issue to the person committing such offence a Penalty Notice in the form specified in Schedule 3. The payment of the fine shall be made to the cashier of the Government.⁴

18 Amount of penalty

The penalty to be specified in a penalty notice issued under regulation 17, must be the penalty prescribed for the particular penalty notice offence in column B of the table in Schedule 2.

SCHEDULE 1**LITTER AND WASTE COMPLIANCE NOTICE**

Date: / / 20

An Enforcement Officer, issues this notice to:

Name:

Address:

OR TO THE OCCUPIER OF (*Address of premises*)

TAKE NOTICE that you are required to –

**delete as appropriate*

- *1. Remove litter or waste from your land/premises and dispose of the litter or waste as required by the Waste Management Act.
- *2. Remove waste under your control to the authorised dump at [*name place where waste is to be taken*]

Or by **here state any other requirement for the proper disposal of the waste*

-
- *3. Cease burning litter or waste and dispose of the litter or waste as required by the Waste Management Act

- *4. Cease using the following waste for land filling or reclamation

-
- *5. Take the following action in relation to litter or waste under your control:
[*Insert details of waste disposal requirements*]

.....

TAKE NOTICE that if you fail to comply with the requirements of this Notice within 5 days of receiving this Notice you may be fined up to \$1,000 for individuals and \$5,000 for companies and businesses.

AND TAKE FURTHER NOTICE that if you continue to offend and cause injury to human health or damage to the environment you may be prosecuted under the Waste Management Act and fined up to \$10,000 or face a term of imprisonment for up to 2 years, or both.

Issued by the *Department of Waste Management/*A designated waste management operator/*Tuvalu Police/*Ministry of Health/*Department of Environment

SIGNED

Enforcement Officer (*name and designation*)

SCHEDULE 2**TABLE OF PENALTY NOTICE OFFENCES³**

Column A	Column B
Regulation 3 Littering	\$20
Regulation 5 Dumping wastes	\$100
Regulation 7(1) Dumping wastes which cause pollution	\$250
Regulation 8(1) Unlawful use of waste bins	\$50
Regulation 8(2) Stealing, damaging or burning a waste bin	\$250
Regulation 8A Offence relating to recycling and composition of waste	\$50
Regulation 9 Burning litter and wastes	\$50
Regulation 10 and 11 Burning hazardous or noxious wastes (including plastics, rubber, oils and poly-foam)	\$500
Regulation 12 Use of banned wastes for land filling (except at dumpsites)	\$500
Regulation 13(2)(a) Failure to disclose hazardous wastes when taking to dumpsites	\$250
Regulation 13(2)(b) Providing false information about hazardous wastes when taking to dumpsites	\$250
Regulation 13(2)(c) Unlawful storage or disposal of hazardous wastes	\$500
Regulation 15(3) Failure to comply with clean up notice	\$200

SCHEDULE 3**FORM OF PENALTY NOTICE**

(Regulation 18)

Date:

To [Name] of [Address]

You have been found to have committed the following offence(s) under the Waste Management) Regulations (*marked with a tick*) –

Indicate offence with a tick	Penalty Notice Offences	Penalty to be paid
	Regulation 3 Littering	\$20
	Regulation 5 Dumping wastes	\$100
	Regulation 7(1) Dumping wastes which cause pollution	\$250
	Regulation 8(1) Unlawful use of waste bins	\$50
	Regulation 8(2) Stealing, damaging or burning a waste bin	\$250
	Regulation 8A Offence relating to recycling and composition of waste	\$50
	Regulation 9 Burning litter and wastes	\$50
	Regulation 10 and 11 Burning hazardous or noxious wastes (including plastics, rubber, oils and poly-foam)	\$500
	Regulation 12 Use of banned wastes for land filling (except at dumpsites)	\$500
	Regulation 13(2)(a) Failure to disclose hazardous wastes when taking to dumpsites	\$250
	Regulation 13(2)(b) Providing false information about hazardous wastes when taking to dumpsites	\$250
	Regulation 13(2)(c) Unlawful storage or disposal of hazardous wastes	\$500
	Regulation 15(3) Failure to comply with clean up notice	\$200

The indicated penalty in the above table applies to this offence. You may sign the declaration below and take this notice together with the sum of \$ to pay

the fine to the Clerk of the Magistrates' Court/Office of the Kaupule within 28 days of today's date; OR If you wish to contest this fine a summons will be issued to you after 28 days and you will be required to attend a court and appear before a Magistrate.

Fill in below if a Court date has already been arranged for the hearing of this matter if the penalty is not paid

You are required to appear at the _____ Court, on the _____ day of _____ 20____, if you fail pay the penalty specified in this Notice.

DECLARATION: I, *[Insert your name]*

understand that I have a right to have this matter dealt with by a Court. However instead of appearing in court I wish to pay the fine as set out in this Notice. I tender this Declaration and the fine set by this Penalty Notice.

Signed:

Dated:

Enforcement Officer (*name and designation*)

ENDNOTES

¹ Legal Notice 2018

Amended by the deletion of the original section 19 which related to Island Courts, which have since been repealed

Amended by LN 6/2018, commencement 1 September 2018

Amended by LN 1/2019, commencement January 2019

² Amended by LN 1/2019

³ Inserted by LN 6/2018

⁴ Inserted by LN 1/2019

⁵ Amended by LN 6/2018 and LN 1/2019