

NORFOLK



ISLAND

WASTE MANAGEMENT ACT 2003

[Consolidated as at 2 July 2009
on the authority of the Administrator
and in accordance with
the *Enactments Reprinting Act 1980*]
[NB – re-issued 18 March 2010]

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Waste Management Act 2003

An Act relating to waste management and funding for waste management operations and for related purposes

BE IT ENACTED by the Legislative Assembly of Norfolk Island as follows —

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Waste Management Act 2003*.

Commencement

2. This Act shall come into operation on a date fixed by the Administrator by notice in the Gazette.

Interpretation

3. In this Act, unless the contrary intention appears —
 - “asbestos” means the fibrous form of the mineral silicates belonging to the serpentine and amphibole groups of rock-forming minerals, including the following:
 - (a) actinolite;
 - (b) amosite (brown asbestos);
 - (c) anthophyllite;
 - (d) crocidolite (blue asbestos);
 - (e) chrysotile (white asbestos);
 - (f) tremolite.
 - “asbestos product” means anything that contains asbestos and includes building products known as ‘fibro’, ‘super 6’, ‘shadow line’, ‘compressed fibro’, ‘hardi plank’, ‘hardi flex’, and ‘AC sheet’ that contain asbestos as well as pipes, lagging, asbestos rope, and insulation.

- “authorised officer” means a person appointed to be an authorised officer under section 5;
- “authorised receptacle” means a rubbish receptacle that the executive member causes to be provided for the disposal of rubbish;
- “Centre” includes a designated place within the meaning of section 7;
- “correctly packed and labelled”— asbestos or an asbestos product is correctly packed and labelled if—
- (a) it is packed in a way that minimises the possibility of the release into the environment of airborne asbestos fibres; and
 - (b) the package is clearly labelled to identify that the package contains asbestos or an asbestos product and;
 - (c) any requirements of guidelines made under section 18 have been complied with.
- “Court” means the Court of Petty Sessions;
- “designated place” means a place referred to in section 7;
- “Government Medical Officer” means the person appointed to be the Medical Superintendent under section 23A of the *Norfolk Island Hospital Act 1985*;

- “Guidelines” means the Guidelines published under section 18;
- “mail” means mail within the meaning of the *Postal Services Act 1983*;
- “member of the Police Force” means a member of the Police Force within the meaning of the *Police Act 1931*;
- “owner”, in relation to a vehicle, means the owner of a registered motor vehicle;
- “prescribed” means prescribed by the Regulations;
- “public place” includes —
- (a) a street, road, lane, and thoroughfare, including a footpath, bridge, court, entrance, driveway, verge, nature strip, traffic island, and gutter; and
 - (b) a park, reserve, recreational or sporting ground, or beach, and a building or structure thereon, to which free access is permitted to the public whether or not on payment of money; and
 - (c) a Centre; and
 - (d) vacant Crown land;
- “registered motor vehicle” means a motor vehicle registered under the *Road Traffic Act 1982*;
- “waste” includes litter, garbage, rubbish, refuse, the body of a dead animal and all forms of liquid and solid domestic, commercial and industrial wastes other than sewage;
- “waste disposal fee” means a fee imposed under section 10;
- “waste levy” means a levy imposed under section 8.

PART 2 — GENERAL

Division 1 – Administration

Delegation

4. (1) The executive member may by written instrument delegate to a person any of the powers or functions of the executive member under this Act, other than this power of delegation.

(2) A power or function delegated under subsection 4(1) when exercised or performed by the delegate is, for the purpose of this Act, deemed to have been exercised or performed by the executive member.

(3) A delegation under subsection 4(1) does not prevent the exercise of a power or the performance of a function by the executive member.

Authorised officers

5. (1) The executive member may, by notice in the Gazette, appoint a person to be an authorised officer for the purposes of this Act.

(2) The executive member must issue to a person appointed as an authorised officer under subsection 5(1) a form of identification approved by the executive member.

(3) A person who ceases to be an authorised officer must, as soon as practicable, return the form of identification referred to in subsection 5(2) to the executive member.

Penalty for an offence against this subsection: 2 penalty units.

(4) A person must not personate or falsely represent that he or she is an authorised officer.

Penalty for an offence against this subsection: 5 penalty units.

Powers of authorised officers

6. (1) An authorised officer may exercise the powers specified in, and in accordance with, the notice of appointment referred to in subsection 5(1).

(2) In addition to the powers referred to in subsection 6(1), an authorised officer may, at a Centre —

- (a) direct and supervise the movement of traffic; and
- (b) direct persons to leave a Centre if it is in the interest of public safety, public welfare and good management of the Centre; and
- (c) direct members of the public to sort and place waste brought on to the site by the person; and
- (d) collect prescribed fees and charges.

(3) If an authorised officer believes on reasonable grounds that a person has committed an offence against this Act, the authorised officer may request the person to provide his or her name and address.

(4) The authorised officer must, on request, produce the form of identification issued under subsection 5(2).

(5) A person must not, without reasonable cause —

- (a) refuse to comply with a direction or request by an authorised officer; or
- (b) provide a false name and address.

Penalty for an offence against this subsection: 5 penalty units.

(6) A person shall not obstruct or hinder an authorised officer.

Penalty for an offence against this subsection: 20 penalty units.

Designated places

7. The executive member may —

- (a) by notice in the Gazette; or
- (b) by having appropriate signs erected at the place,

or both, designate a place to be —

- (c) a Waste Management Centre; or
- (d) a place used to dispose of waste; or
- (e) a waste management facility.

*Division 2 — Imposition of levies, etc***Levies may be imposed**

8. (1) A levy at the prescribed rate may be imposed, except in the case of mail, on each cubic metre or tonne of goods of a specified type —

- (a) imported by sea; or
- (b) imported by air; or
- (c) imported in bags.

(2) A levy at the prescribed rate may be imposed on each container of livestock at the rate applicable to —

- (a) equine or bovine animals; or
- (b) other animals.

(3) A levy at the prescribed rate may be imposed on prescribed specific goods or classes of goods.

(4) A levy at the prescribed rate may be imposed on prescribed vehicles, plant and equipment.

Calculation and payment of levies

9. The amount of prescribed levy on inwards freight is —

- (a) calculated by reference to the goods manifest accompanying each inwards freight shipment; and
- (b) payable as prescribed to the Administration .

Waste disposal fees

10. (1) A person must pay the applicable prescribed waste disposal fee in respect of prescribed types, categories or classes of waste.

Penalty: 5 penalty units.

(2) A gate fee or entry fee in respect of a designated place may be imposed as prescribed.

Fees etc, debt due to Administration

11. A fee or charge payable under this Act is a debt due to the Administration and, if unpaid may be sued for by the Administration in a Court of competent jurisdiction.

*Division 3 — Offences, etc***Proof of certain matters, etc**

12. (1) In proceedings in respect of an alleged offence under this Act, a certificate signed, or purporting to be signed by the Registrar within the meaning of the *Road Traffic Act 1982* that states any of the following —

- (a) that on a specified date, a specified vehicle was or was not registered under that Act;
- (b) that on a specified date a specified person was the owner of a registered vehicle,

is evidence of the matters so stated.

(2) In proceedings in respect of an alleged offence relating to waste, if an authorised officer is able to determine the identity of the owner of the waste, then that person is deemed to have committed the offence.

Use of authorised receptacle, etc

13. (1) A person must not leave, throw, deposit or abandon waste in, onto or from a public place except into an authorised receptacle.

Penalty for an offence against this subsection: 20 penalty units.

(2) A person must not contravene subsection 13(1) so that, in the opinion of the Court, the contravention is liable to cause injury to, or danger to the health of a person or damage to property.

Penalty for an offence against this subsection: 30 penalty units.

(3) A person must not bring on to a public place commercial waste or domestic waste for the purposes of disposal into an authorised receptacle.

Penalty for an offence against this subsection: 20 penalty units.

(4) A person who transports waste by use of a registered motor vehicle or other conveyance must securely cover and contain the waste.

Penalty for an offence against this subsection: 20 penalty units.

Removal and storage of asbestos

13A. (1) A person must not move asbestos or an asbestos product (the “waste”) from any place where it has, before or after the commencement of this section, been dumped, stored or otherwise placed or remove the waste from a building, structure, plant or vehicle unless—

- (a) the waste is immediately correctly packed and labelled in approved sealed containers; and
- (b) the person subsequently disposes of the waste in accordance with any guidelines made under section 18, as soon as practicable after the person comes into possession of the waste.

(2) A person who fails to comply with subsection (1) commits an offence.

Penalty: 100 penalty units

Disposal of asbestos

13B. (1) All asbestos and asbestos related products required to be disposed of under section 13A must be disposed of at the Waste Management Centre with the prior approval of an authorised officer and in accordance with any guidelines made under section 18.

(2) A person who fails to comply with subsection (1) commits an offence.

Penalty: 100 penalty units

Dead animals on street, etc

14. (1) A person who, in a public place causes —

- (a) the death of a wild or feral animal; or
- (b) injury to a wild or feral animal so that it cannot remove itself,

must immediately remove the body of the injured animal from the public place.

Penalty: 5 penalty units.

(2) It is a defence to a prosecution for an offence against subsection 14(1) if the defendant satisfies the Court that it was not practicable to remove the injured animal or the body and that he or she gave notice of the injury or death to a member of the Police Force or to an authorised officer as soon as practicable after it occurred.

(3) If the animal referred to in subsection 14(1) is a domestic animal or an animal registered under a law of Norfolk Island the person who caused its injury or death must report the incident to the owner of the animal, a member of the Police Force or to the Stock Inspector before removing it.

Penalty: 5 penalty units.

Liability of owner of motor vehicle

15. (1) If a person in or on a registered motor vehicle commits an offence against this Act and the person cannot be identified —

- (a) the owner of the vehicle at the time of the alleged offence; or
- (b) if the owner was not the driver, the person who was the driver of the vehicle at the time of the alleged offence,

is deemed to have committed the offence.

(2) Subsection 15(1) does not apply if the owner has reported to a member of the Police Force before the time of the alleged offence that the registered motor vehicle was stolen or illegally used.

Cost of clean up

16. The Court may, in addition to any other penalty, order the person found guilty of an offence against this Act to pay the reasonable costs of collecting and removal of the waste that constituted the offence.

Property in waste, etc

17. (1) The title to waste or other material deposited at a Centre immediately vests in the Administration to the exclusion of all other interests in the waste or other material.

(2) Waste or other material deposited at a Centre is not public stores for the purposes of the *Public Moneys Act 1979*.

(3) An article delivered to a Centre that is not destroyed may be dealt with as the executive member directs.

PART 3 — MISCELLANEOUS**Guidelines**

18. (1) The executive member may publish Guidelines for the operation, use and management of Centres.

(2) A person must not deposit waste at a Centre except in accordance with the Guidelines.

Penalty for an offence against this subsection: 5 penalty units.

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Regulations

19. (1) The Administrator may make Regulations not inconsistent with this Act, prescribing all matters —

- (a) required or permitted by this Act for the purposes of giving effect to this Act; and
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection 19(1), the Regulations may prescribe —

- (a) the form and manner of collecting levies or fees under this Act including whether a levy is in the form of an annual payment, a one-off payment or a combination of instalments or charges or a surcharge on another fee; and
 - (b) prepayment vouchers or other form of credit arrangement for payment of fees; and
 - (c) gate or entry fees; and
 - (d) penalties not exceeding 10 penalty units in respect of a first offence and 20 penalty units in respect of a second or subsequent offence against the Regulations.
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NOTES

The *Waste Management Act 2003* as shown in this consolidation comprises Act No. 1 of 2004 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Waste Management Act 2003</i>	1, 2004	17.2.04	
<i>Waste Management (Amendment) Act 2009</i>	2, 2009	13.02.09	
<i>Waste Management (Amendment No. 2) Act 2009</i>	11, 2009	30.06.09	3

Table of Amendments

ad = added or
inserted

am = amended

rep = repealed

rs = repealed and
substituted

Provisions affected	How affected	
3	am	11, 2009
13A	ad	11, 2009
13B	ad	11, 2009
18A	ad	2, 2009
	rep	11, 2009

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