

Litter Act

No. 54 of 1987

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SCHEDULE



Victoria

No. 54 of 1987

Litter Act 1987

[Assented to 20 October 1987]

The Parliament of Victoria enacts as follows:

Purpose of Act.

- 1. The purpose of this Act is—**
 - (a) to prohibit and regulate the deposit of litter in the environment of Victoria; and**
 - (b) to provide for the enforcement of the Act.**

Commencement.

- 2. This Act comes into operation on a day to be proclaimed.**

Definitions.

- 3. In this Act—**
 - “Authorised officer” means a person referred to in section 12.**
 - “Council” means any municipal council including the city of Melbourne and the city of Geelong.**

“Deposit” in relation to litter, means the act of intentionally parting with possession of the litter or of allowing the litter to go out of one’s possession.

“Highway” has the same meaning as in section 3 (1) of the *Road Safety Act 1986*.

“Land” means any land, whether publicly or privately owned, and includes buildings and other structures permanently affixed to the land.

“Litter” includes—

(a) any solid or liquid domestic or commercial waste, refuse, debris or rubbish and, without limiting the generality of the above, includes any glass, metal, plastic, paper, fabric, wood, food, garden remnants and clippings, soil, sand, concrete or rocks; and

(b) any other material, substance or thing deposited in a place if its size, shape, nature or volume makes the place where it is deposited disorderly or detrimentally affects the proper use of that place; and

(c) any unsolicited handbills or other advertising material—

but does not include any gases, dust or smoke or any waste matter which is produced or emitted during or as a result of any of the normal operations of the mining, building or manufacturing industry or of any primary industry.

“Vehicle” means a vehicle within the meaning of the *Road Safety Act 1986* and includes all watercraft and aircraft and railway locomotives and railway rolling stock.

“Waters” has the same meaning as it has in the *Environment Protection Act 1970*.

Application of Act.

4. (1) This Act does not apply to the deposit of any litter—

(a) in any receptacle or in or on any place which is set aside for the disposal of litter; or

(b) in any receptacle or in or on any place which is provided for the deposit of litter by a public authority or by a person who owns or has control over the land where the receptacle or place is located; or

(c) in any receptacle or in or on any place which is used for the deposit of mail, or under the doorway of a dwelling if the litter deposited belongs to a class of material, substance or thing which is usually and properly deposited there.

(2) Sub-section (1) does not prevent proceedings being taken against a person for an offence under this Act if—

(a) the person deposits any litter in a receptacle provided by a council for use by members of the public; and

- (b) the litter is of such a size, shape, nature or volume that it is not appropriate for it to be deposited there.

Deposit of litter generally.

5. (1) A person who deposits any litter in or on any land or into any waters or into, onto, inside or from any vehicle is guilty of an offence.

Penalty: 20 penalty units.

(2) A person is not guilty of an offence under sub-section (1) if the person deposits the litter in or on any land or into any waters or into, onto, inside or from any vehicle with the express consent of the person who or body which has the control or management of the land, waters or vehicle.

Aggravated littering.

6. A person convicted of an offence under section 5 is guilty of the offence of aggravated littering if the court which convicts the person is satisfied that the offence involved—

- (a) the intentional deposit of litter being glass, metal, earthenware or crockery; or
- (b) the intentional deposit of litter that was a danger to any persons or animals or to any land, waters or vehicle; or
- (c) the intentional deposit of litter in, on, from or towards any vehicle.

Penalty: In addition to or instead of any penalty under section 5, 20 penalty units or imprisonment for 1 month or both.

Liability of owners of vehicles.

7. (1) In this section, "vehicle" does not include a train, tram, bus (other than a bus which is being operated by a private hirer of that bus) or taxi-cab.

(2) If a person is guilty of an offence under section 5 which involves the deposit of litter from a vehicle on a highway, the owner of the vehicle and the driver of the vehicle at the time of the offence are also guilty of that offence unless in the case of the owner of the vehicle—

- (a) within 14 days after the owner is served with a summons or litter infringement notice for the offence, the owner gives the informant a written sworn statement of the name and address of the person who was the driver of the vehicle at the time of the offence; or
- (b) the owner satisfies the court that the owner did not know that name and address or could not reasonably have found it out.

(3) Despite sub-section (2), if the vehicle involved in the offence under section 5 was a stolen vehicle, the owner of the vehicle is not guilty of the offence.

(4) The statement referred to in sub-section (2) (a) is admissible in evidence and in the absence of evidence to the contrary, is proof that the person named in it was the driver of the vehicle at the time of the offence.

(5) If a person who is guilty of an offence referred to in sub-section (2) pays the penalty for that offence, a further penalty cannot be imposed on any other person for that offence.

(6) A person must not lay any information for an offence referred to in this section—

- (a) against the driver of the vehicle, unless—
 - (i) the driver was the person who actually deposited the litter; or
 - (ii) the informant considers that proceedings against the person who actually deposited the litter are unlikely to be successful; or
- (b) against the owner of a vehicle, unless the person considers that proceedings—
 - (i) against the person who actually deposited the litter; and
 - (ii) against the driver of the vehicle—
 are unlikely to be successful.

(7) Proceedings under this section cannot be brought unless the driver of the vehicle was advised at or as soon as practicable after the time of the alleged offence that he or she may be charged with the offence.

Court's powers on conviction.

8. (1) If a court convicts a person of an offence under this Act, the court may—

- (a) instead of or in addition to any other penalty, order the person to—
 - (i) clear away and remove the litter deposited by the person; or
 - (ii) clear away and remove any other litter in or on any land or into any waters—
 within a specified time and under the supervision of a person nominated by the court; or
- (b) in addition to any other penalty, order the person to pay a sum of compensation for removal of the litter to the person who or body which has the control or management of the land or waters where the offence occurred.

(2) The following provisions apply to an order under sub-section (1) (a):

- (a) The court which makes the order may also order that if the person contravenes the order, that person must pay a fine of not more than 20 penalty units;
- (b) If the person complies with the order, the person nominated by the court to supervise must send to the person a statement to that effect;
- (c) If the person contravenes the order, a court may, on application by the person nominated to supervise, issue a summons requiring the person to show cause why the fine referred to in paragraph (a) should not be imposed;
- (d) On hearing the summons, the court may make any order under this Act which it thinks fit in respect of the person who contravened the order.

(3) The following provisions apply to an order under sub-section (1) (b):

- (a) The compensation specified in the order to be paid to the person or body is to be treated as a judgment debt due to that person or body;
- (b) The payment of the compensation may be enforced in the same way as a judgment or order of the court for payment of a civil debt may be enforced.

Litter infringement notices.

9. (1) An authorised officer may serve a litter infringement notice in a form approved by the Environment Protection Authority on a person whom the officer believes has committed an infringement referred to in the Schedule requiring the person to pay the penalty for that infringement specified in the Schedule.

(2) The authorised officer may withdraw the litter infringement notice within 28 days after serving it by sending a notice in a form approved by the Environment Protection Authority to the person on whom the litter infringement notice was served.

(3) If the person pays the penalty before the litter infringement notice is withdrawn, the person is entitled to a refund of the penalty.

(4) If the person pays the penalty within the time specified in the notice or, if the authorised officer allows, before a summons is served on the person in respect of the infringement, the following provisions apply:

- (a) Further proceedings are not to be taken against the person;
- (b) There is to be no conviction recorded against that person for the infringement.

(5) A penalty paid under this section must be applied as if the person who paid it was convicted of the infringement in a magistrates' court on the information of the authorised officer.

(6) If—

- (a) a person served with a litter infringement notice has not paid the penalty within the time specified in the notice; or
- (b) a litter infringement notice is withdrawn—

proceedings may still be taken or continued for the infringement.

(7) If the court hearing the proceedings—

- (a) is satisfied that an infringement notice was served and not withdrawn; and
- (b) the court finds the person guilty of the infringement—

that finding is not to be treated as a conviction for any purpose whatsoever except the making of the finding itself and any later proceedings in respect of that finding, including any proceedings by way of appeal or order to review.

Powers of members of police and authorised officers.

10. If—

- (a) a member of the police force or an authorised officer finds a person whom that member or officer believes is committing an offence under this Act or an infringement listed in the Schedule; and
- (b) the person does not state his or her name and address when required by the member or officer or states a false name or address—

the person is guilty of an offence.

Penalty: 5 penalty units.

Proceedings under this Act.

11. Proceedings for an offence under this Act or for an infringement listed in the Schedule may be taken—

- (a) by a member of the police force; or
- (b) by an authorised officer; or
- (c) by the person who or body which has the control or management of the land or waters where the offence or infringement occurred.

Authorised officers.

12. (1) The following are authorised officers for the purposes of this Act:

- (a) In relation to any land or waters in a Council's municipal district, an officer of the Council appointed by the Council as an authorised officer;
- (b) In relation to land or waters under the control or management of a public authority, an officer of the public authority appointed by it;
- (c) In relation to section 9, a member of the police force;
- (d) In relation to section 14 (4), an officer of the Environment Protection Authority appointed by the Authority as an authorised officer for the purposes of the *Environment Protection Act 1970*;
- (e) In relation to any bus, tram, watercraft, aircraft or railway locomotive, a person appointed by the person or body which owns or manages that vehicle.

(2) An authorised officer must while carrying out any functions under this Act produce on demand proof of his or her appointment.

Penalties.

13. All penalties for an offence or infringement under this Act must be paid—

- (a) if recovered in proceedings taken by or on behalf of a Council—into that Council's municipal fund; or
- (b) if recovered in proceedings taken by or on behalf of any public authority—into the public authority's fund, or if the public authority does not have a fund, but administers or uses money paid to or collected by it, to the public authority as part of that money; or
- (c) if recovered in proceedings taken by a member of the police force or any other person or a body without a fund and which does not administer or use money, into the Consolidated Fund.

Reports of offences or infringements.

14. (1) In this section, "vehicle" does not include a train, tram or bus (other than a bus which is being operated by a private hirer of that bus).

(2) A person who sees another person committing an offence or infringement under this Act may inform the Environment Protection Authority or the relevant Council of the offence or infringement by sending it a signed written report containing—

- (a) the date, time and place of the offence or infringement; and

- (b) the nature of the litter; and
- (c) any evidence of the identity of the person who committed the offence or infringement.

(3) If a report under sub-section (2) specifies that the person who committed an offence or infringement under this Act was seen arriving at or leaving the place where the offence or infringement occurred in a vehicle driven by that person, the owner of the vehicle is to be treated as if the owner committed the offence or infringement.

(4) The procedure in section 7 applies to the taking of proceedings against the owner of the vehicle.

(5) On receiving a report under sub-section (2), the Environment Protection Authority or Council may take proceedings against the person seen committing the offence or infringement.

Certain certificates are admissible in evidence.

15. (1) In proceedings against the owner of a vehicle referred to in section 7 or 14, a certificate from the Road Traffic Authority or from a corresponding body in another State or in a Territory of the Commonwealth stating that a certain person was the owner of a vehicle at a certain date is admissible in evidence and, in the absence of evidence to the contrary, is proof that he or she was the owner of the vehicle at that date.

(2) In proceedings under this Act, a certificate given by a person or body referred to in section 12 (1) stating—

- (a) that a specified person is an authorised officer for the purposes of this Act and is an officer or person referred to in paragraph (a), (b), (c) or (d) of section 12 (1); or
- (b) in relation to a certificate given by a Council, that any land was or any waters were in the Council's municipal district; or
- (c) in relation to a certificate given by a public authority, that any land was or any waters were under the control or management of the public authority—

is admissible in evidence and, in the absence of evidence to the contrary, is proof of those statements.

(3) All courts and persons acting judicially—

- (a) shall take judicial notice of the signature or seal of any person or body affixed to a certificate under sub-section (2); and
- (b) shall, until the contrary is proved, presume that the signature or seal was properly affixed.

Consequential amendment and repeals.

16. (1) The *Litter Act 1964* is repealed. Act No. 7146.
- (2) In the Schedule to the *Statute Law Revision Act 1983*, Items 145 and 146 are repealed. Act No. 9902.
- (3) Part 4 of the *Local Government Acts (Miscellaneous Amendments) Act 1986* is repealed. Act No. 82/1986.
- (4) In the *Road Safety Act 1986*— Act No.
127/1986.
- (a) In section 3 (1) in the definition of "Traffic Infringement", for paragraph (b) substitute—
- “(b) an offence against section 5 or 6 of the *Litter Act 1987* relating to the deposit of litter into, onto, inside or from any vehicle;” and
- (b) In Schedule 4, item 15 is repealed.
- (5) In Schedule Two to the *Magistrates (Summary Proceedings) Act 1975*, for paragraph (g) substitute—
- “(g) Offences against the *Litter Act 1987*”.
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SCHEDULE

Section 9

<i>Infringement</i>	<i>Penalty</i>
1. Failure by a person to remove litter deposited by that person when requested to do so by an authorised officer.	1 penalty unit.
2. Defacing a receptacle for litter provided by a public authority.	1 penalty unit.
3. Setting fire to a receptacle for litter provided by a public authority.	1 penalty unit.
4. Having an unsecured load on a vehicle.	1 penalty unit.
5. Depositing in or on any land or into any waters litter which consists of a cigarette butt, ring pull or other small item.	1/3 penalty unit.
6. An offence under section 5.	1 penalty unit.

NOTES

1. *Minister's second reading speech—*
Legislative Assembly: 28 April 1987
Legislative Council: 19 August 1987
2. The long title for the Bill for this Act was "A Bill to make provision with respect to litter, to repeal the *Litter Act 1964* and for other purposes."