

LEGISLATION

Legislation relating to waste is an important tool to ensure the recovery of resources that reduce pollution through tighter controls and higher standards of responsibility. Waste management activities themselves can potentially cause environmental impacts and these are also outlined in legislative requirements. As legislation is varied throughout Australia and indeed the world, the New South Wales legal framework for governing wastes are outlined here.

New South Wales legislation relates to three main areas: waste minimisation and resource recovery, licensing of waste management facilities and activities and development assessment of waste management activities. 'Waste' is defined by the government as any substance (solid, liquid or gas) discharged or deposited in a way that alters the environment and any discarded, rejected or surplus substance. This includes those substances intended to be sold, recycled, reprocessed, recovered or purified by a process other than that which produced the substance (DEC).

1. The Waste Avoidance and Resource Recovery Act 2001 outlines priorities for waste minimisation and the methods to achieve them. The aims of the act are to minimise natural resource consumption of natural resources, encourage resource recovery, continually reduce waste generation and minimise disposal of waste. The NSW Waste Avoidance and Resource Recovery Strategy 2003 sets broad targets in waste management with the DEC having the authority to demand reasons for any failure to comply with the objectives of a current waste strategy.

2. Environmental protection licences are required for 'scheduled activities' including landfill facilities. The Department of Environment and Conservation holds primary responsibility for regulating NSW waste facilities, with the majority of waste facility operations licensed to local councils (and some private operations). Local water

supply authorities or councils are also issued with licences. These licences are for domestic and trade waste discharged into sewer systems and from treatment plants. These environmental protection licences can impose conditions relating to the storage, handling, treatment, processing, disposal and transportation of waste.

3. Disposing of waste 'willfully or negligently' that harms or is likely to harm the environment is a serious and illegal offence under the Protection of the Environment Operations Act 1997 unless the disposer can show that they took reasonable precautions to prevent the dumping. This includes dumping of everything from oil to litter thrown onto the street or out of a vehicle. Examples of current fines for illegal waste disposal as issued by the DEC are:

- \$60 for small items such as cigarette butts
- \$200 for general littering or littering from vehicles
- \$375 for littering that threatens public safety or the environment for example bottle smashing.
- \$500 for uncovered waste during transportation including building waste.
- \$5000 - \$250 000 for illegal dumping of waste.

It is also a serious offence for a person to transport waste to a place that cannot be lawfully used as a waste facility as well as for an owner/occupier of the land unlawfully used as a waste facility. In order to use land as a waste facility, the owner will need development consent as well as a licence.

Legislation and policy does tend to be renewed, renamed or replaced. If in doubt, contact the National Environmental Defenders Office (website below) or your state or local authority, for example the Department of Environment and Conservation in NSW on <http://www.dec.nsw.gov.au>

WHAT CAN I DO?

- Free advice on environmental legislation issues is available from the National Environmental Defenders Officer at <http://www.edo.org.au/>, simply click on your state for specific information relevant to you.
- The Department of Environment and Conservation (DEC) is the major pollution law enforcement body within New South Wales. The DEC implements and enforces waste management and pollution control laws and issues licences. They have a pollution hotline where citizens can report incidences on 131 555.

MORE INFORMATION

- www.environment.nsw.gov.au/legal/summariesact.htm#ehc - general website for legislation relating to the environment
- www.nswfarmers.org.au/legislative_action/current_legislation - NSW Farmers Association explains legislation relevant to landholders.
- www.globelaw.com/ - Globelaw provides examples of international and transnational cases including those related to transport of nuclear waste and climate change
- www.basel.int/ - the international Basel Convention controls the transport of toxic wastes between countries
- www.epa.gov/epaoswer/osw/internat/index.htm - provides examples of international waste activities
- waste.eionet.eu.int/legislation - European Union waste legislation