



Tuvalu

**ENVIRONMENT PROTECTION (LITTER
AND WASTE CONTROL) REGULATIONS
2013**



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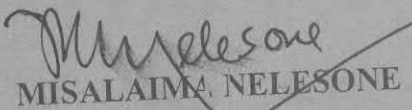
**MADE UNDER SECTION 39 OF THE ENVIRONMENT PROTECTION
ACT**

Made this 25th day of October 2013


HON. VETE SAKAIO

Acting Minister for Foreign Affairs, Trade, Tourism, Environment and Labour

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MISALAIMA NELESONE

Acting Secretary to Government

PART 1 PRELIMINARY

1 Citation and commencement

- (1) These Regulations may be cited as the Environment Protection (Litter and Waste Control) Regulations 2013.
- (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 Environment Protection Act 2008;

“**authorised dumping site**” means any waste dump or waste disposal facility operated by a designated waste management operator in accordance with the Waste Operations and Services Act 2009;

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

“**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 Operations and Services Act 2009, and includes the Solid Waste Agency;

“**Environment Officer**” means an environment officer appointed under section 9 of 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) any specific substance, object or thing determined under any law to be a hazardous waste; and
- (c) 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;

“**the Solid Waste Agency**” has the same meaning as in the Waste Operations and Services Act 2009;

“**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 is added to the Schedule of the Act in accordance with section 24(2) 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 \$40.
- (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 Operations and Services Act 2009.

4 Duty to keep land and premises clean

- (1) Every owner and occupier shall keep their land and premises (whether residential or commercial) free from litter and other wastes which may become litter.
- (2) Any person in breach of this regulation may be served with a notice under regulation 12.

5 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.

PART III WASTE RELATED OFFENCES

6 Certain wastes not to be used for landfill etc.

- (1) No wastes comprising –
- (a) electrical or computer goods or electrical fittings of any nature; or
 - (b) any white goods 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 Waste Operations and Services Act 2009 -
- 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 \$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.

7 Controls over burning certain harmful wastes

- (1) Any person who intentionally burns wastes –
- (a) which contain plastics or any hazardous waste or substance; or

- (b) creates an unintentional Persistent Organic Pollutant as provided for in the Stockholm Convention –
- commits an offence and shall be liable upon conviction to a fine:
- (i) not exceeding \$1,000, in the case of an individual; or
 - (ii) not exceeding \$2,000, 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 lights a fire, or causes a fire to be lit, at an authorised dumping site other than:
- (a) in an incinerator used at the site by a designated waste management operator; or
 - (b) in accordance with lawful directions given by a designated waste management operator –
- commits an offence, and shall be liable upon conviction to a fine:
- (i) not exceeding \$1000 or to imprisonment for a term not exceeding 1 month, or both, in the case of an individual; or
 - (ii) not exceeding \$2000, or to imprisonment for a term not exceeding 3 months, or both, in the case of a corporation, or an individual who has committed an offence against this regulation on a previous occasion.

8 Prescribed wastes

- (1) For the purposes of this regulation “**prescribed wastes**” includes –
- (a) all ozone depleting substances;
 - (b) all persistent organic pollutants; and
 - (c) any other type of waste determined in accordance with any law to be a hazardous waste.
- (2) Any person who –
- (a) dumps any prescribed substance at a landfill without disclosing its nature to the relevant designated waste management operator; or
 - (b) fails to store, transport or safely dispose of any prescribed substance in a manner required by law or which is consistent with any international waste related convention applying in Tuvalu –
- commits an offence and shall be liable upon conviction to a fine:
- (i) not exceeding \$1,000, in the case of an individual; or
 - (ii) not exceeding \$2,000, in the case of a corporation, or an individual who has committed an offence against this regulation on a previous occasion.

9 General offences related to wastes

- (1) Any person who deposits or dumps wastes at a place other than an authorised dumping site so as to cause pollution to a public area, or to land belonging to the government or to another person, commits an offence and is liable upon conviction to a fine:
 - (a) not exceeding \$1,000 or to imprisonment for a term not exceeding 1 month, or both, in the case of an individual; or
 - (b) not exceeding \$2,000, or to imprisonment for a term not exceeding 3 months, or both, 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:
 - (a) deposits or dumps any waste;
 - (b) discharges or permits the discharge of any waste; or
 - (c) causes the depositing or discharge of any waste –
on or in the vicinity of a roadway, vacant land or foreshore, or into any water source, pool, well, mangrove or the sea commits an offence and shall be liable upon conviction to a fine:
 - (i) not exceeding \$1,000, in the case of an individual; or
 - (ii) not exceeding \$2,000, in the case of a corporation, or an individual who has committed an offence against this regulation on a previous occasion.
- (3) Any person who disposes of wastes from residential or commercial premises in a public waste receptacle that is provided in a public place only for the purpose of receiving small quantities of litter, commits an offence and shall be liable upon conviction to a fine:
 - (a) not exceeding \$50, in the case of an individual; or
 - (b) not exceeding \$100, in the case of a corporation, or an individual who has committed an offence against this regulation on a previous occasion.

10 Offences related to hazardous wastes

- (1) Any person who imports into Tuvalu any hazardous wastes, in a manner which breaches international obligations under waste related conventions applying to Tuvalu, commits an offence and shall be liable upon conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months, or both.
- (2) Any person who arranges for the movement of hazardous wastes into, out of or within Tuvalu, or for their storage or disposal so as to cause a breach of an international obligation under waste related conventions applying to Tuvalu

commits an offence and shall be liable upon conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months, or both.

PART IV ENFORCEMENT PROVISIONS

11 Powers of waste management officers

- (1) For the purposes of this Part and regulation 5(4), officers in the full time employment of the Solid Waste Agency, and any designated waste management operator, and all health inspectors may exercise the powers given to Environment Officers.
- (2) Where any prosecution is undertaken by a Kaupule in its capacity as a designated waste management operator in accordance with these Regulations, the fine imposed by the court shall be payable to the relevant Kaupule.

12 Notices to clean premises, remove wastes etc.

- (1) An Environment Officer and any officer authorised under regulation 11 may issue a notice in Form 2 requiring an owner or occupier of land or premises who is in breach of regulation 4 or 5 –
 - (a) to dispose of litter from the land or premises;
 - (b) to remove any wastes to an authorised dumping site; or
 - (c) otherwise dispose of any wastes -and may impose any requirement in relation to action to be taken under the notice.
- (2) Any person who fails to comply with a notice, or any requirement stated on the notice, issued under sub-regulation (1) commits an offence and shall be liable upon conviction to a fine not exceeding \$1000.

13 Remedial action and cost recovery

If any person –

- (a) breaches regulation 4; or
- (b) fails to comply with a notice issued under regulation 6 or regulation 11 –

an Environment Officer 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 this

regulation, 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 IV MISCELLANEOUS

14 Employers to be liable

If any person commits an offence under regulation 4 or Part III while acting in the course of that person's employment, the employer of that person shall be liable to be prosecuted for the offence as if the employer had committed it.

15 Proving matters relating to wastes

- (1) Where in any prosecution under these Regulations –
 - (a) evidence is given by a medical practitioner, or any health inspector, that a chemical, substance or item is hazardous or is dangerous to human or animal health, or that any matter constitutes a health risk; or
 - (b) evidence is given by an Environment Officer that there has been, or may be, a harmful or adverse effect on the environment –the court shall accept that evidence as prima facie evidence of the matters alleged.
- (2) Where a prosecution relates to a chemical or other similar substance, the court may have regard to any information disclosed on the packaging of the chemical or substance to determine whether there is a danger to health or to the public.
- (3) Nothing in this regulation shall limit or affect the manner in which any matter may be proved to the satisfaction of a court.

16 Jurisdiction of the Island Courts

Pursuant to section 42 of the Act and section 35(3) of the Waste Operations and Services Act 2009, the Island Courts shall have jurisdiction in relation to all offences under these Regulations, except those under regulation 10, and may impose any fine up to the maximum prescribed for each offence.

SCHEDULE**Form 1****NOTICE TO CEASE BURNING OFF OR OTHER ACTIVITY**

Date: / /20

TAKE NOTICE that it has been determined that an activity related to the disposal of wastes is harmful to the public or to the environment.

You are therefore required to –

** (Delete whichever do not apply)*

1. Stop burning rubbish or wastes
2. Stop burning rubber or plastics
3. Stop leaving wastes in or near a source of water, beach, foreshore, mangrove or swamp
4. Stop burying wastes or using them for filling or reclaiming land
5. Stop dumping wastes in the sea
6. **(Insert any other activity that is to cease)*

AND YOU ARE REQUIRED to remove all litter and wastes on your land or under your control to an authorised dumping site or waste disposal facility at *(insert place)*

TAKE NOTICE that if you fail to comply with the requirements of this Notice at any time after receiving this Notice you may be fined \$200.

Issued by the Department of Environment /A Designated Waste Management Operator

SIGNED

**Environment Officer*

**Officer of a designated waste management operator*

Form 2

NOTICE TO CLEAN PREMISES OR REMOVE WASTES

Date: / /20

An officer of the Department of Environment/ A Designated Waste Management Operator, issues this notice to:

Name:

Date of Birth:

Address:

Occupation:

TAKE NOTICE that you are required to –

1. Remove litter from your land/premises **delete as appropriate*
2. Remove wastes from your land/premises to the authorised dump at
 **name place where waste is to be taken*
3. Dispose of litter and wastes on your land/premises by delivering them to a waste recycler at **here state the name of an approved waste recycler*

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

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 \$1,000.

Issued by the Department of Environment /A Designated Waste Management Operator

SIGNED

**Environment Officer*

**Officer of a designated waste management operator*