



LITTER.

No. 13 of 1973.

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AN ACT to make better provision in respect of litter.
 [10 May 1973.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Litter Act 1973*.

Short title and commencement.

(2) This Act shall commence on a date to be fixed by proclamation.

Interpretation.

2 In this Act, unless the contrary intention appears—

“ land ” means ground, soil, or earth and includes fields, meadows, pastures, woods, moors, waters, marshes, heaths, orchards, gardens, beaches, highways, pavements, yards, recreation grounds, bridges, wharves, quays, piers, jetties, and moles and any buildings and structures thereon;

“ litter ” includes rubbish, refuse, junk, filth, garbage, scrap, or other articles or material abandoned or unwanted by the owner or possessor thereof.

Authorized officers.

3—(1) The following persons are authorized officers for the purposes of this Act:—

- (a) All authorized officers within the meaning of the *Environment Protection Act 1973*;
- (b) All police officers within the meaning of the *Police Regulation Act 1898*;
- (c) All bailiffs of Crown lands appointed under section thirteen of the *Crown Lands Act 1935*; and
- (d) Persons appointed under subsection (2) of this section.

(2) A municipality may appoint persons to be authorized officers in and for its municipal district by warrant under the hand of its mayor, warden, or town clerk.

(3) Every authorized officer, other than a police officer, shall, when acting in the execution of this Act, produce to any person against whom he so acts, if required by that person, and to any court or justice, evidence of his authority, which shall be in the prescribed form.

Offences.

4—(1) A person shall not—

- (a) cast litter onto;
- (b) place litter on;
- (c) leave litter cast or placed by him or by a person under his orders or control onto or on;
- (d) suffer litter to fall or be blown onto;
- (e) break any glass on; or

(f) leave any glass broken by him or by a person under his orders or control on,

any land not owned or occupied by him except—

(g) in a place or receptacle appointed or intended therefor;

(b) with the permission of the occupier of, or a person in charge of or exercising control over, the land; or

(i) where at the time a charge is being made for admission to the land.

Penalty: Five hundred dollars.

(2) Without limiting the generality of subsection (1) of this section it is declared that—

(a) it is an offence thereunder to cast litter—

(i) onto a highway;

(ii) onto unoccupied Crown land;

(iii) onto water covering land; or

(iv) from a highway onto adjoining land; and

(b) the principles of paragraph (a) of this subsection apply also to paragraphs (b) to (f) of subsection (1) of this section.

(3) So that the courts may be helped to impose for contraventions of subsection (1) of this section penalties both similar in similar circumstances and graded according to the gravity of the offence the Governor may by proclamation publish guidelines in the form of sets of circumstances with penalties that he deems appropriate in the circumstances.

(4) A proclamation under subsection (3) of this section is subject to subsections (3) to (7) of section forty-seven of the *Acts Interpretation Act 1931* as if it were a regulation.

(5) Nothing in subsection (3) of this section takes away any discretion belonging to any court when adjudging penalties.

(6) A person who has been duly ordered to remove or deposit anything under section six shall not fail to comply with the order.

Penalty: Two hundred and fifty dollars.

(7) A person who fails to give his true name and address when asked by an authorized officer so to do is liable to a penalty of two hundred and fifty dollars.

(8) A driver of a vehicle from which or from something attached to which litter or glass has been cast who fails to stop when required by an authorized officer is liable to a penalty of two hundred and fifty dollars.

Composition
of offences.

Cf. No. 67 of
1962, s. 705
(4), (5), (13).

5—(1) Where there is a contravention of subsection (1) of section four, an authorized officer may give a notice in the prescribed form to the offender requiring him to pay—

- (a) where the authorized officer has been appointed under subsection (2) of section three, to the collector of the municipality that appointed him; and
- (b) in any other case, to a collector of revenue within the meaning of the *Audit Act* 1918 who is specified in the notice, within fourteen days the sum of ten dollars by way of composition for the contravention.

(2) Subject to subsection (3) of this section, if a composition is made as provided in subsection (1) of this section it bars any subsequent proceedings in respect of the same contravention.

(3) A composition for the purposes of subsection (1) of this section may be made by the offender and shall be accepted by the relevant collector at any time before a complaint of the contravention is called on for hearing, but if made—

- (a) after the fourteen days referred to in that subsection and before the filing of the complaint shall be of the sum of fifteen dollars; and
- (b) after the filing of the complaint shall be of the sum of twenty-five dollars.

(4) For the purposes of this section—

- (a) a notice under subsection (1) of this section authorizes the relevant collector to receive money tendered pursuant thereto; and
- (b) a person who files a complaint as mentioned in subsection (3) shall forthwith inform the relevant collector that he has done so.

(5) The Minister may issue, and publish as he thinks fit, instructions as to which collectors shall be specified in what circumstances for the purposes of subsection (1) of this section.

Removal of
litter.

6—(1) An authorized officer who finds a person contravening subsection (1) of section four may order that person then and there—

- (a) to remove the litter or glass from the land; or

(b) to deposit the litter or glass in the nearest place or receptacle on the land appointed or intended therefor.

(2) A person who complies with an order under subsection (1) of this section may not be prosecuted under subsection (1) of section four in respect of the contravention so remedied.

(3) The court before which a person is convicted of a contravention of section four may, instead of or in addition to the penalty prescribed for the contravention, order the offender to remove the litter or glass within a specified time to a specified place and in default of so doing to pay to—

(a) the Crown; or

(b) the authority having control, or the occupier, of the land where the litter or glass is,

as the case may require, a sum appearing to the court to be equal to the cost of removing it to a convenient place.

(4) Whether or not a complaint has been made of a contravention of section four, the Crown, or any person on whose land (including land under his control) such a contravention has occurred, may recover upon a complaint under the *Justices Act 1959* any expense to which it or he has been put in removing the litter or glass the subject of the contravention.

(5) A complaint of a contravention of section four and a complaint for the recovery of expenses under subsection (4) of this section may be—

(a) combined in one document;

(b) proceeded on by one summons; and

(c) heard together.

7—(1) Where a contravention of subsection (1) of section four is alleged to have been committed by the driver of or a passenger in a motor vehicle as defined in the *Traffic Act 1925* or by a passenger on a trailer as so defined while drawn by such a motor vehicle—

Facilitation of proof of certain offences.

Cf. 16 Geo. V No. 38, s. 51 (3).

(a) the owner of the motor vehicle, on demand by an authorized officer, shall give him all such information as he may require as to the identity or whereabouts of the driver of the motor vehicle at any time relevant to the charge;

(b) if any information so required is not known to the owner, he shall forthwith with all reasonable diligence (proof of which shall be upon him) take steps to obtain the information and shall report to the authorized officer within seven days, or sooner if practicable, the result of the steps so taken; and

(c) on demand made to any person by an authorized officer for any information in that person's knowledge as to the identity of the driver, or as to any fact that may lead to the driver's identification, that person shall give the information to the authorized officer.

(2) A person shall not fail to comply with any requirement of subsection (1) of this section.

Penalty: Two hundred and fifty dollars.

(3) Where a contravention has been committed as mentioned in subsection (1) of this section the driver may be convicted of the contravention unless on proceedings taken under subsection (4) of this section a passenger is convicted of actually committing the offence and it appears that the driver could not be charged with committing the offence under section seventy-three of the *Justices Act 1959*.

(4) A driver charged with a contravention as mentioned in subsection (3) of this section may obtain from a justice a summons to another person to attend the hearing of the complaint and answer thereto and on the filing of the summons that other person shall be deemed to be named as a defendant in the complaint and charged therein with the offence jointly with the driver, and at the hearing the driver may show that the other person should be convicted of the offence and the driver should not.

Prosecution of
offenders under
other Acts.
62 Vict. No.
48, s. 38.

8 Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other Act for an offence punishable by this Act, or from being liable under any other Act to any other or higher penalty or punishment than is provided for the offence by this Act: Provided that no person shall be punished twice for the same offence.

Regulations.

9—(1) The Governor may make regulations for the purposes of this Act.

(2) The regulations may—

(a) prescribe the cases and manner in which persons who—

(i) sell commodities in non-returnable containers for consumption in or near the place of sale; or

- (ii) issue tickets or other documents to give entry to any place for admission to which a charge is made,

shall provide receptacles for discarded containers or documents, as the case requires;

(b) regulate the use and disposal of—

- (i) boxes, packets, bags, bottles, tins, and other containers;

- (ii) papers; and

- (iii) things of no use or no further use to their possessor, so that their use or disposal will not contribute to the increase of litter nor the pollution of the environment within the meaning of the *Environment Protection Act 1973*;

(c) prescribe uniform dress, articles of clothing, badges, or signs to be worn by any class of authorized officers, other than police officers; and

(d) prescribe penalties not exceeding two hundred dollars for breaches of the regulations.

(3) Nothing in subsection (2) of this section affects the generality of subsection (1) of this section.

(4) The Governor may in regulations made under section thirty of the *Traffic Act 1925* prescribe among the requirements mentioned in paragraph (e) of subsection (1) of that section that owners of public vehicles provide at or near the exits therefrom receptacles for discarded tickets and empty them before they are full.

10 Penalties imposed upon convictions of contraventions of this Act made upon the complaint of— Appropriation of penalties.

(a) an authorized officer appointed under subsection (2) of section 3; or

(b) any other officer of a municipality,

shall be paid into the municipal fund of the municipality of which the complainant is an officer.

11 The Minister and municipalities may enter into agreements for— Execution of Act.

(a) the execution of this Act in their municipal districts;

(b) the employment of staff for that purpose;

- (c) the better execution of other laws directed to keeping their municipal districts free from litter or similar things; and
- (d) purposes related to any of the foregoing paragraphs of this section.