

POLLUTION AND WASTE MANAGEMENT

INTRODUCTION

This fact sheet was produced by the Environmental Law Association to provide a plain language introduction to national pollution control laws, including the *Environment Management Act*, *Litter Decree*, *Water Supply Act* and the *Public Health Act*.

ENVIRONMENT MANAGEMENT ACT

The *Environment Management Act* (EMA) aims to protect human health and the environment by regulating pollution from commercial and industrial facilities.¹

What is a commercial or industrial facility?

A ‘**commercial or industrial facility**’ includes any individual, company or government agency that provides services or undertakes any activity for financial gain.²

What activities are regulated?

Unless it has obtained a **permit**, a commercial or industrial facility must not:

- discharge any waste or pollutant into the environment;
- produce or generate any waste, pollutant or hazardous substance;
- handle, store, process or control any hazardous substance; or
- engage in any activity that may have an adverse impact on human health or the environment.³

Engaging in these activities without a permit is a serious criminal offence, with penalties up to \$5,000,000 or life imprisonment.⁴

How does a facility obtain a permit?

To obtain a permit, the owner of the facility must submit a written application to the Department of Environment.⁵

What is the time limit for obtaining a permit?

Every commercial or industrial facility that discharges any waste or pollutant must apply for a permit by 1 January 2009.⁶

What are the different types of permits?

There are ten different types of permits:

Waste Disposal Permits

- solid waste permit
- liquid waste permit
- livestock waste permit
- air pollution permit

Waste Recycling Permits

- battery handling permit
- plastic bottle permit
- landfill permit
- recycling permit
- waste transport permit
- solid waste dump permit.

The key features of these permits are summarised in **Table 1** below.

The Department has a wide discretion to attach conditions to any permit.⁷ Each permit type has standard conditions attached. For example, a liquid waste permit must set a timetable for reducing discharges to comply with the *National Liquid Waste Standards*.⁸

Breaching permit conditions is an offence. Maximum penalty: \$10,000 or 2 years prison.⁹

Permit Type	Requirement	Exceptions
Solid waste permit	Every facility that disposes of solid waste or pollutants from any of its premises must hold a solid waste permit.	Disposal of waste for collection by a waste management authority or to a recycler or waste transport operator.
Liquid waste permit	Every facility that discharges liquid waste or pollutants from any of its premises must hold a liquid waste permit.	Discharge of waste to a septic tank or sewer. Discharge of uncontaminated mains water, rainwater or stormwater.
Livestock waste permit	The following commercial livestock facilities must hold a livestock waste permit: <ul style="list-style-type: none"> • a piggery with 10 sows or more; • a dairy milking shed with 10 cows or more; • a cattle feedlot of 5 head or more; • a commercial meat producing unit; • a commercial poultry farm. 	The following activities do not require a livestock waste permit: <ul style="list-style-type: none"> • keeping animals in the open (i.e. not in a confined area) • keeping animals for subsistence (i.e. not for commercial gain).
Air pollution permit	Every facility that emits exhaust gases, smoke, steam or dust from any of its premises must hold an air pollution permit.	A facility is not required to obtain a permit if the facility complies with the <i>National Air Quality Standards</i> . ¹⁰
Battery handling permit	Every facility that imports, manufactures, distributes or sells by wholesale lead acid batteries must hold a battery handling permit.	No exceptions.
Plastic bottle permit	Every facility that imports or manufactures PET bottles must obtain a plastic bottle permit.	No exceptions.
Landfill permit	Every facility that operates a landfill must hold a landfill permit.	No exceptions.
Recycling permit	Every recycling facility must hold a recycling permit.	No exceptions.
Waste transport permit	Every facility that operates a waste transport business must hold a waste transport permit.	No exceptions.
Solid waste dump permit	Every facility that operates a solid waste dump must hold a solid waste dump permit.	No exceptions.

Table 1. Waste disposal and recycling permits under the *Environment Management Act 2005*.

What is the procedure for granting a permit?

Upon receiving a permit application, DoE must inspect the premises, and may take samples, interview employees of the facility and make further enquiries.¹¹

In the case of a liquid waste permit, the surrounding area and receiving waters must also be inspected to assess their capacity to accept the liquid waste discharge.¹²

DoE must grant the permit with conditions, or refuse the permit, within 28 days of completing their inspection and enquiries.¹³

What happens if a commercial or industrial facility fails to obtain a permit?

If a commercial or industrial facility does not obtain a permit, the Department may issue a **non-compliance notice** to the facility requiring it to apply for and obtain a permit.¹⁴

If the facility fails to comply with the notice within the time period specified in the notice, the facility commits an **offence**. The maximum penalty for this offence is \$100,000.¹⁵

If a facility **does not obtain a permit**, and the facility causes damage to the environment by discharging pollution, the Department may inspect the facility, issue on the spot fines and issue binding orders to remedy the damage.¹⁶

How do I find out if a facility has a permit?

The *Environment Management Act* establishes a **public register** to facilitate access to environmental information.

This environmental register must include information about all waste and recycling permits, and the conditions attached to them.

The register or a copy of it must be made available for inspection and copying by the public during at the offices of the Department of Environment during normal office hours.¹⁷

What are the penalties for pollution offences?

The **penalties** for pollution offences are severe. For example, the maximum penalty for knowingly or recklessly causing a pollution incident that results in harm to human health or severe damage to the environment is \$1,000,000 and/or life imprisonment for an individual or \$5,000,000 for a body corporate.¹⁸

Can I challenge a decision to grant a permit?

If a permit has been granted **unlawfully**, you may be able to challenge the decision to grant that permit in court. For example, if DoE failed to inspect the premises or if the permit was granted without the appropriate standard conditions attached. For more information, contact the Environmental Law Association.



Figure 1. General procedure for reviewing a waste permit application.

OTHER POLLUTION LAWS

It is an offence under the *Litter Decree 1991* to deposit litter in any public place. Maximum penalty: \$1,000 or 6 months prison.¹⁹

It is offence under the *Public Health Act* to pollute any watercourse, stream, lake, pond or reservoir forming part of a water supply. Maximum penalty: \$20.²⁰

It is an offence under the *Water Supply Act* to do any act that results in the pollution of any catchment area, reservoir, dam, weir or other water supply work. Maximum penalty: \$100.²¹

COMPLIANCE AND ENFORCEMENT

The Department has broad powers to enforce the *Environment Management Act*, including the power to inspect premises, suspend permits, issue notices and issue fixed penalty notices.²² Courts may impose fines and prison sentences, and may make orders, including remediation and compensation orders.²³

REPORTING BREACHES

Members of the public can improve law enforcement by monitoring and reporting breaches of pollution laws, and advocating for stricter enforcement by government.

If you believe that a pollution law has been breached, **report** the incident to the Department of Environment, providing as much detail as possible, including:

- description of the incident
- location of the incident
- time and date of the incident
- name and contact details of the offender
- names and contact details of witnesses
- photographs, video or physical evidence.

For more information about reporting breaches, refer to **Fact Sheet 6: Responding to Breaches of Environmental Law**.

USEFUL CONTACTS

Environmental Law Association
15 Ma'afu Street, Suva
Tel: 330 0122

Department of Environment
19 MacGregor Road, Suva
Tel: 331 1699

ENDNOTES

¹ *Environment Management Act 2005*, s.3.

² *Environment Management Act 2005*, s.2.

³ *Environment Management Act 2005*, s.35.

⁴ *Environment Management Act 2005*, s.45.

⁵ *Environment Management (Waste Disposal And Recycling) Regulations 2008*, r.46.

⁶ *Environment Management Act 2005*, s.63(4).

⁷ *Environment Management (Waste Disposal and Recycling) Regulations 2007*, r.43.

⁸ *Environment Management (Waste Disposal and Recycling) Regulations 2007*, r.6(5). The *National Air Quality Standards* are set out in Schedule 3 of the *Environment Management (Waste Disposal And Recycling) Regulations 2008*.

⁹ *Environment Management Act 2005*, s.44(1).

¹⁰ The *National Air Quality Standards* are set out in Schedule 5 of the *Environment Management (Waste Disposal And Recycling) Regulations 2008*, and include standards for emissions and ambient air quality.

¹¹ *Environment Management (Waste Disposal And Recycling) Regulations 2008*, r.46.

¹² *Environment Management (Waste Disposal And Recycling) Regulations 2008*, r.6.

¹³ *Environment Management (Waste Disposal And Recycling) Regulations 2008*, r.47.

¹⁴ *Environment Management Act 2005*, s.37.

¹⁵ *Environment Management Act 2005*, s.37.

¹⁶ *Environment Management Act 2005*, s.38.

¹⁷ *Environment Management (Waste Disposal And Recycling) Regulations 2008*, r.54.

¹⁸ *Environment Management Act 2005*, s.45.

¹⁹ *Litter Decree 1991*, s.8.

²⁰ *Public Health Act [Cap 111]*, s.126.

²¹ *Water Supply Act [Cap 144]*, s.24.

²² *Environment Management Act 2005*, ss.19-21, 37-39.

²³ *Environment Management Act 2005*, ss.42-45, 47.

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