



Antarctic Treaty (Environment Protection) (Waste Management) Regulations 1994

Statutory Rules 1994 No. 36 as amended

made under the

Antarctic Treaty (Environment Protection) Act 1980

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taking into account amendments up to SR 2002 No. 8

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Regulation 1

Part 1 Preliminary**1 Name of Regulations** [see Note 1]

These Regulations are the *Antarctic Treaty (Environment Protection) (Waste Management) Regulations 1994*.

2 Objects of the Regulations

The objects of these Regulations are:

- (a) to assist in implementing Australia's obligations under Annex III to the Madrid Protocol; and
- (b) to provide for the management of waste generated in connection with activities in the Antarctic to which the Annex does not apply.

3 Interpretation

In these Regulations, unless the contrary intention appears:

Act means the *Antarctic Treaty (Environment Protection) Act 1980*.

authorised person means a person authorised by the Minister by notice published in the *Gazette* for the purpose of the provision in which the expression appears.

clean up, in relation to a site, means remove or dispose of waste and any structure that is on the site.

Committee means the Committee for Environmental Protection established under Article 11 of the Madrid Protocol.

generate, in relation to waste, means:

- (a) generate waste in the Antarctic; or
- (b) import into the Antarctic:
 - (i) waste; or
 - (ii) an article, animal, plant, bacterium, virus, yeast or fungus from which waste is generated by a natural or mechanical process or a process involving human activity.

Regulation 3

generator, in relation to waste, means:

- (a) the person or organisation responsible for generating the waste; and
- (b) if another person or organisation has undertaken to manage the waste — the other person or organisation.

glacier ice means ice in, or originating from, a glacier, whether on land or floating in the sea.

ice-free area means an area of the Antarctic, other than sea, that is not permanently covered by ice.

ice pit means a hole or pit in glacier ice, either occurring naturally (such as a crevasse), or constructed.

manage, in relation to waste, includes store, dispose of, and remove.

remove means remove from the Antarctic.

Note Under section 3 of the Act, unless the contrary intention appears, terms used in both these Regulations and the Madrid Protocol have the same meaning in these Regulations as in the Protocol.

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Part 2 Waste management

Division 1 Planning and conducting waste management

4 Planning and conduct of waste minimisation and management

A person planning or carrying on an activity in the Antarctic must:

- (a) incorporate, in the planning, measures for:
 - (i) minimising the amount; and
 - (ii) recycling; and
 - (iii) safe storage; and
 - (iv) removal; and
 - (v) disposal;of waste associated with the activity; and
- (b) incorporate, in the planning, all reasonable measures for avoiding the use of poly-vinyl chloride products in the Antarctic; and
- (c) in carrying on the activity — take all reasonable steps to minimise the amount of waste generated or disposed of in the Antarctic.

Division 2 Storage of waste

5 How must waste be stored

- (1) A person storing waste in the Antarctic must take all reasonable steps to prevent dispersal of the waste into the environment before it is removed or disposed of.

Penalty: 20 penalty units.

- (2) An offence under subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

Division 3 Removal of waste

6 Waste that must be removed

- (1) The generator must, as soon as practicable, remove any of the following types of waste:
 - (a) radio-active material;
 - (b) an electrical battery;
 - (c) solid or liquid fuel;
 - (d) waste containing:
 - (i) a harmful level of a heavy metal; or
 - (ii) an acutely toxic compound; or
 - (iii) a harmful persistent compound;
 - (e) poly-vinyl chloride, polyurethane foam, polystyrene foam, rubber, lubricating oils, and treated timber or other products that contain additives that could produce harmful emissions if incinerated;
 - (f) other plastic waste that is not low density polyethylene containers;
 - (g) solid residue resulting from incineration of an article.

Penalty: 20 penalty units.

- (2) An offence under subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

7 Solid, non-combustible waste

- (1) The generator of solid non-combustible waste must remove the waste if:
 - (a) the Minister has authorised the removal of the waste under Part 3 of the Act; or
 - (b) Part 3 of the Act does not apply to the removal of the waste.

Penalty: 20 penalty units.

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Example of solid non-combustible waste

A fuel drum that is no longer needed.

Note It is an offence under section 21A of the Act to carry on an activity to which Part 3 of the Act applies in the Antarctic without the authorisation of the Minister under that Part.

- (2) An offence under subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

8 Liquid waste

- (1) The generator of liquid waste that is not:

- (a) waste described in regulation 6; or
- (b) sewage; or
- (c) domestic liquid waste;

must take all reasonable steps to remove the waste as soon as is practicable.

Penalty: 20 penalty units.

- (2) An offence under subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

9 Waste that must be removed unless sterilised or incinerated

- (1) The generator of:

- (a) the residue of a carcass of an imported animal; or
- (b) a laboratory culture of a micro-organism or plant pathogen; or
- (c) an introduced avian product;

must remove, sterilise or incinerate it as soon as is practicable.

Penalty: 20 penalty units.

- (2) An offence under subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

10 Destination of waste removed

A person complies with a provision of these Regulations that requires or permits the removal of waste if the waste is taken to:

- (a) the country where the activity that generated the waste was planned; or
- (b) another country in which arrangements have been made for disposal of the waste in accordance with any international agreements relating to the type of waste concerned.

11 Waste generated at a field camp

- (1) The generator of waste at a field camp must take all reasonable steps to move the waste to the station or ship from which the field camp is supported, or to another station or ship at which the generator has arranged management of the waste in accordance with Annex III to the Madrid Protocol.

Penalty: 20 penalty units.

- (2) An offence under subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

Division 4 Disposal of waste by incineration

12 When and how must waste be incinerated

- (1) In this regulation, *combustible waste* does not include:
 - (a) combustible waste that is required by regulation 6 to be removed; or
 - (b) combustible waste that is described in subregulation 19 (2).
- (2) The generator of combustible waste that will not be removed or recycled must burn it in an incinerator that:
 - (a) minimises harmful emissions; and

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(b) is designed and operated in a way that takes into account any emission and equipment standards or guidelines in respect of waste of that kind:

- (i) recommended by the Committee or the Scientific Committee on Antarctic Research; or
- (ii) issued by the Commonwealth or the government of the Australian Capital Territory.

Penalty: 20 penalty units.

(3) An offence under subregulation (2) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

13 Prohibition on open burning of waste

(1) A person must not burn waste in an open fire.

Penalty: 20 penalty units.

(2) An offence under subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

Division 5 Limits on disposal of waste on land

14 Prohibition on disposal of waste in ice-free areas or fresh water

(1) A person must not dispose of waste onto an ice-free area or into a fresh water system.

Penalty: 20 penalty units.

(2) An offence under subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

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15 Conditional prohibition on disposal of waste on ice

- (1) Subject to regulation 16 and subregulation 18 (2), a person must not dispose of waste onto sea ice or glacier ice.

Penalty: 20 penalty units.

- (2) An offence under subregulation (1) is an offence of strict liability.

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

16 When may waste be disposed of on ice

- (1) This regulation applies to waste that:
- (a) is generated at a station located inland or a field camp; and
 - (b) is not required, under Division 3, to be removed, sterilised or incinerated; and
 - (c) is not combustible.
- (2) Subject to subregulation (3), if disposal of waste as otherwise permitted by this Part is not reasonably practicable, a person may dispose of the waste in an ice pit.
- (3) A person disposing of waste in an ice pit must ensure that:
- (a) the top of the waste in the pit is below the top of the ice immediately around the pit; and
 - (b) the ice pit is not in an ice-flow line known by the person to terminate at an ice-free area or in an area in which waste may become exposed.

Penalty: 20 penalty units.

Division 6 Disposal of sewage and domestic liquid waste into the sea

17 When sewage or domestic waste may be disposed of into sea

- (1) If this regulation applies, a person must not dispose of sewage or domestic waste directly into the sea.

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Penalty: 20 penalty units.

- (2) However, it is a defence to a prosecution under subregulation (1) if:
- (a) for sewage or waste that is generated at a station with an average weekly occupancy of at least 30 people over the austral summer — the sewage or waste is macerated before disposal; and
 - (b) all reasonable steps are taken to discharge the sewage or waste into the sea at a place where conditions exist for initial dilution and rapid dispersal of the sewage or waste.

Note A defendant bears an evidential burden in relation to the matters mentioned in subregulation (2) (see section 13.3 of the *Criminal Code*).

- (3) This regulation does not apply to the disposal of sewage from a ship.

Note It is an offence under the *Protection of the Sea (Prevention of Pollution from Ships) Act 1983* to discharge sewage into the sea from a ship (see sections 26BC and 26D of that Act).

18 Disposal of by-product of sewage treatment

- (1) The by-product of treatment of sewage by the rotating biological contactor process or a similar process may be disposed of into the sea if the disposal is in a manner that:
- (a) does not adversely affect the local environment; and
 - (b) if a permit is required under the *Environment Protection (Sea Dumping) Act 1981* — is in accordance with a permit granted under that Act.
- (2) Without limiting paragraph (1) (a), the by-product may be disposed of by placing it on sea ice so that the by-product falls into the sea when the sea ice melts.

Division 7 Cleaning up

19 Cleaning up waste disposal sites and abandoned work sites

- (1) Subject to subregulation (3), a person who uses a waste disposal site or work site in the Antarctic and abandons it must clean up the site if:
- (a) the Minister has authorised the cleaning up of the site under Part 3 of the Act; or
 - (b) Part 3 of the Act does not apply to the cleaning up of the site;

to the extent that the cleaning up of the site does not involve taking from the site a structure that has been designated as a historic site or monument.

Note It is an offence under section 21A of the Act to carry on an activity to which Part 3 of the Act applies in the Antarctic without the authorisation of the Minister under that Part.

- (2) An offence under subregulation (1) is an offence of strict liability.

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (3) Subregulation (1) does not require a site to be cleaned up before an assessment has been made of the historical value of any material or structure on the site.

Note A defendant bears an evidential burden in relation to the matter mentioned in subregulation (3) (see section 13.3 of the *Criminal Code*).

Part 3 Compliance with waste management requirements

20 Non-compliance with Part 2 in certain circumstances

- (1) A person need not comply with a requirement of Part 2 when carrying on an activity in an emergency:
 - (a) to save a person from death or serious injury; or
 - (b) to secure the safety of a ship or aircraft or the safety of equipment or facilities of high value; or
 - (c) to protect the environment.
- (2) A person need not comply with a requirement of Part 2 if:
 - (a) the equipment used by the person to manage waste in accordance with the requirement has been damaged unintentionally; and
 - (b) all reasonable precautions have been taken after the occurrence of the damage to minimise the impact on the environment resulting from the damage.

21 Notification of non-compliance with Part 2

- (1) A person who contravenes a requirement of Part 2 in circumstances described in regulation 20, must, unless he or she has a reasonable excuse, give the Minister or an authorised person notice of the failure to comply within 30 days of starting the activity or of the equipment being damaged (as the case requires).

Penalty: 2 penalty units for each day on which the offence continues.

- (2) Unless the person has a reasonable excuse, he or she must give the Minister or an authorised person a written report within a further 30 days:
 - (a) identifying the requirement that was contravened; and
 - (b) describing the waste management activity that contravened the requirement; and

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(c) explaining why the requirement was not complied with.

Penalty: 2 penalty units for each day on which the offence continues.

(3) An offence under subregulation (1) or (2) is an offence of strict liability.

Note 1 For *strict liability*, see section 6.1 of the *Criminal Code*.

Note 2 A defendant bears an evidential burden in relation to whether or not he or she had a reasonable excuse (see section 13.3 of the *Criminal Code*).

Table of Statutory Rules

Notes to the *Antarctic Treaty (Environment Protection) (Waste Management) Regulations 1994*

Note 1

The *Antarctic Treaty (Environment Protection) (Waste Management) Regulations 1994* (in force under the *Antarctic Treaty (Environment Protection) Act 1980*) as shown in this compilation comprise Statutory Rules 1994 No. 36 amended as indicated in the Tables below.

Table of Statutory Rules

Year and number	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
1994 No. 36	11 Mar 1994	11 Mar 1994	
1998 No. 231	22 July 1998	22 July 1998	—
2002 No. 8	21 Feb 2002	21 Feb 2002	—

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 1	rs. 2002 No. 8
Rr. 5, 6.....	am. 2002 No. 8
R. 7	rs. 2002 No. 8
Rr. 8, 9.....	am. 2002 No. 8
R. 10.....	am. 1998 No. 231
Rr. 11, 12.....	am. 2002 No. 8
Rr. 13–15.....	rs. 2002 No. 8
R. 17.....	rs. 2002 No. 8
R. 19.....	am. 1998 No. 231; 2002 No. 8
Note to r. 19 (3).....	ad. 2002 No. 8
R. 21.....	am. 2002 No. 8
