

Local Nuisance and Litter Control Act 2016

Factsheet 15 – Abatement Notices

Section 30 of the *Local Nuisance and Litter Control Act 2016* (the Act) contains provisions that enable the issuing of either a 'Nuisance Abatement Notice' or a 'Litter Abatement Notice' to gain compliance with the Act.

What is an Abatement Notice?

Abatement Notices are important legislative instruments designed to secure compliance with Part 4 of the Act (Offences), and have the scope of instructing a person or persons to comply with a wide range of directions. An Abatement Notice can, for example, direct a person(s) to:

- discontinue or not commence an activity indefinitely or for a specified time
- limit an activity to specified times
- take specified action
- undertake specified monitoring or testing
- make good damage or clean up litter
- furnish results or reports as requested
- develop a plan of action to secure compliance

Note: *Specific to a Litter Abatement Notice, a plan of action may include proposals around ensuring litter clean up, preventing the escape of litter from a premises or keeping an area around a premises (no greater than 100m) free from litter.*

An Abatement Notice doesn't necessarily have to be in writing in the first instance

If, in the opinion of an Authorised Officer, urgent action is required to secure compliance with the Act the officer may orally issue an emergency notice on the condition and understanding that:

- the person to whom the oral notice is issued is advised of their right to appeal against the notice to the Environment, Resources and Development Court, and;
- the oral notice will cease to have effect on the expiration of 3 business days from the time of its issue unless it is confirmed by a written notice.

In all cases, a person(s) to whom a notice is issued has the right to appeal the notice to the Environment, Resources and Development Court and must be notified of this right.

What are the penalties for non-compliance with an Abatement Notice?

Non-compliance with a notice without reasonable excuse can result in significant penalties:

Maximum penalty:

- in the case of a body corporate: \$60,000
- in the case of a natural person: \$30,000
- Expiation fee: \$500

It is also an offence for a person to hinder or obstruct a person who is complying with the direction of an Abatement Notice. This offence can incur a maximum penalty of \$25,000.

If the actions required by an Abatement Notice are not complied with, the Minister (or person authorised by the Minister for this purpose) or the council may take any action required by the notice. The reasonable costs and expenses incurred in taking this action may be recovered as a debt from the person who failed to comply with the requirements of the notice.

More information

This fact sheet is one of a range designed to increase your awareness and understanding of the requirements of the *Local Nuisance and Litter Control Act 2016*. Please see other fact sheets for further information about the Act.

See sections 31 – 33 of the Act, and section 12 of the *Local Nuisance and Litter Control Regulations 2017*.

Disclaimer

This publication is a guide only and will not necessarily provide adequate information relevant to every situation. Whilst it seeks to explain your possible obligations in a helpful and accessible way, it is likely that some detail may not be captured. It is important, therefore, that where necessary you make your own determination as to whether you should seek legal advice.