

**Submission**

**ENVIRONMENTAL MANAGEMENT AND**

**POLLUTION CONTROL (SMOKE) REGULATIONS**

**2018.** Version 8 - 31st May 2018

Thank you for the opportunity to make a further submission to that which was forwarded in relation to the EMPC (Smoke) Regulations 2017 Draft.

**PART 2 – HEATING APPLIANCES TO COMPLY WITH AUSTRALIAN STANDARDS.**

**6. Interference with heating appliances**

*(2) Subregulation (1) does not apply in relation to –*

*(b) a heating appliance that has been installed in, and is sold together with, abuilding.*

Subregulation (2)(1)(b) should not exempt a heating appliance that has been interfered with, and is sold together with a building.

No heating appliance should be allowed to be on-sold with a building if it has been interfered with.

**Final Draft to be changed to read:**

6(2)(b) needs to be deleted from the draft, because this legislation should be written to make sure all non-compliant heaters are made to comply, or are removed from service.

To say appliances have to comply with AS/NZS 4012:2014 or AS/NZS

4013:2014 and then to say some do not is inconsistent and the final draft needs to be amended.

**NOTE:**

Interfered with or not, all installed appliances must comply with the latest standards.

AS/NZS 4012:2014 or AS/NZS 4013:2014 are now three years old and it has even been show these standards do not meet real-time conditions thereby under-estimating emissions and efficiency.

There does not appear anywhere in the 2018 draft Regulations to make sure old non-compliant polluting appliances will be got rid of; removed forever from the system.

The lifetime of an appliance can be up to fifty years old. Environmental Management and Pollution Control (Smoke) Regulations 2018 will be of little comfort for those living near such heating devices unless this is changed, and now is the time to do it.

What good is it updating Standards and Regulations if old non-compliant appliances are still permitted to be used?

**Part 3 - EMISSION OF SMOKE FROM HEATING APPLIANCES, OUTDOOR HEATING OR COOKING APPLIANCES AND FIREPLACES**

**7. Emission of smoke from heating appliances, outdoor heating or cooking appliances and fireplaces**

*(1) A person must not cause, or allow, a heating appliance, an outdoor heating or cooking appliance or a fireplace to emit smoke…*

*Penalty: Fine not exceeding 10 penalty units.*

**Final Draft to be changed to read:**

“Penalty: Fine not exceeding 10 penalty units for the first offence…” (and increases for repeat offences).

After years of observation it is usually the same offenders who keep offending, deliberately in many instances, when they are asked to desist.

*7(3) A person must take all reasonable measures to ensure that only dry wood, dry vegetation or dry vegetative waste is burnt in a heating appliance, an outdoor heating or cooking appliance or a fireplace.*

*Penalty: Fine not exceeding 10 penalty units*

**Final Draft to be changed to read:**

7(3) “A person must ensure that only dry wood, dry vegetation or dry vegetative waste is burnt in a heating appliance, an outdoor heating or cooking appliance or a fireplace.

Penalty: Fine not exceeding 10 penalty units for the first offence…” (and increase for repeat offences).

**Part 4 – CONTROL OF BURNING**

**8. Prohibition on burning of prohibited waste**

*Unless it is otherwise lawful to do so, a person must not burn any prohibited waste.*

*Penalty: Fine not exceeding 50 penalty units.*

**Final Draft to be changed to read:**

“A person must not burn any prohibited waste.”

Prohibited waste is listed specifically in the draft for good reason.

To make it lawful to burn prohibited waste is inconsistent and needs to be removed from the final Draft.

**9. Burning of vegetation and vegetative waste on land with an area of less than 4 000 square metres**

*(1) A person must not burn vegetation or vegetative waste in the open, or in an incinerator, on land that has an area of less than 4000 square metres,*

**NOTE:**

4000square meters = 1 acre only, or 0.4hectares only.

Whilst the area in this draft has been doubled, the previous legislated area of 2000 square meters was manifestly insufficient.

It is well known by the EPA and the population that PM2.5’s can travel much further than this and can be detrimental to health.

Some rural properties, such as Grindelwald, are 3 acres or more in area and we can still be smoked out when some people burn vegetation or vegetative waste.

This has been borne out in smoke complaints to the EPA and can be found in the 2017 Cleanairtas draft Smoke submissions or at <http://www.cleanairtas.com>

Please refer to the attached West Tamar Council letter. Incidentally, WTC said the owner could burn and the EPA and police said he could not.

**Final Draft to be changed to read:**

(1) “Unless there are no other means of disposal, a person must not burn vegetation or vegetative waste in the open, or in an incinerator, on land that has an area of less than 4hectares or 10 acres.”,

**unless –**

*9(a) the person uses all practicable means as are necessary to prevent or minimise air pollution; and*

**Final Draft to be changed to read:**

9(a) “The person must not allow smoke to escape from their boundary.”

It is not a matter of minimising air pollution. It is a matter of not deliberately polluting the air in the first place.

There are proven means of getting rid of vegetation or vegetative waste other than burning it.

These fully explained and appropriate methods can be viewed at <http://cleanairtas.com/departments/alternative-solutions.htm>

*9(b) if a valid permit is issued to the person under the Fire Service Act 1979, he or she burns the vegetation or vegetative waste in accordance with the permit; and*

**NOTE:**

It is no trouble to get a fire permit and make as much smoke as you like which goes against the intent of these EMPC Smoke Regulations.

Some people, and some members of the Fire Service, are way too keen to burn and make smoke and think of it as the first means of reducing vegetative waste.

As with 9(a) there are proven means of getting rid of vegetation or vegetative waste other than burning it.

It is a community expectation that a Fire Service Act should not take preference over these EMPC (Smoke) Regulations when it comes to making or allowing deliberate and harmful air pollution.

This needs to be recognised in the Final Draft.

9(c) if valid by-laws, within the meaning of the *Local Government Act 1993*, are made in accordance with that Act and are applicable to the person, he or she burns the vegetation or vegetative waste in accordance with those by-laws…”

**NOTE:**

According to the Local Government Association of Tasmania (LGAT) website

there are 29 councils in Tasmania. Some make by-laws and some do not.

This gives us non-uniform smoke regulations and controls across the state.

It has been shown in the previous Cleanairtas 2017 draft Smoke submissions that councils and the EPA do not agree when it comes to deliberate burning and smoking people out.

The EPA cannot delegate smoke responsibility to councils in the final draft of the Smoke regulations because Cleanairtas has previously shown councils do not want to have to police smoke in Tasmania when larger burning is allowed to continue and resourcing is not provided.

It will be easier for councils to pass a by-law to solve their problem by allowing open burning at the expense of susceptible old, young and sick people.

The Final Draft Regulations should not allow this to happen.

This submission should be read in conjunction with the detailed submissions forwarded by Cleanairtas to the 2017 EPMC (Smoke) Regulations draft.

Thank you.