

AUSTRALIA AND NEW ZEALAND BIOSOLIDS LEGAL REGISTER

TASMANIA

This chapter of the *Legal Register* deals with legislation in Tasmania. Biosolids producers, users or retailers in New South Wales are also subject to regulation by the Commonwealth and to the common law. Thus, in identifying laws which may be relevant to biosolids, readers are encouraged to also examine Section 1 of the *Legal Register* which deal with Commonwealth regulation and the common law. Readers might also examine the key points set out in the boxes below.

Commonwealth

Key Points

- In the production, using and selling of biosolids, Commonwealth legislation will be applicable and therefore needs to be strictly adhered to.
- Commonwealth legislation is applicable to all states and territories. If there is a conflict between Commonwealth and State legislation then the Commonwealth provision prevails.
- In supplying biosolids to a corporation or person, a producer or seller of Biosolids will need to ensure that it does not act unconscionably in contractual negotiations, misleadingly or deceptively and must refrain from making false representations in regards to their product.
- Biosolids which are being sold by a producer or seller of biosolids must be fit for the agreed purpose, of merchantable quality and corresponding to the supply or description in which they were purchased.
- A producer or seller of Biosolids may be liable to pay compensation or damages if the Biosolids cause injury to individuals or goods because of a defect in the product.

See section one – *Introduction* for more information.

Common Law – Key Points

Common law is law which has been derived from cases heard and decided in the Australian and other courts. Common law decisions based on their particular facts establish law, however, they may be subsequently modified by later decisions or by legislation. The two major types of common law most relevant to bodies involved in the production, treatment, or supply of biosolids are negligence and nuisance.

Negligence

Negligence involves a failure to foresee a reasonably foreseeable risk of harm coupled with a wrongful act or omission. In relation to biosolids, negligence could arise in circumstances where biosolids give rise to some injury, damage or harm which is reasonably foreseeable.

Nuisance

Nuisance is the substantial and unreasonable interference with another person's use and enjoyment of land. The produce or use of biosolids may give rise to liability in nuisance if it substantially and unreasonably interferes with the use and enjoyment of land of another person.

Tasmania

- Tasmanian legislation establishes various obligations that a producer, supplier or user of biosolids must consider when dealing with biosolids products.
- Biosolids suppliers and end-users should consult the Tasmanian Biosolids Reuse Guidelines 1999 (**Tasmanian Guidelines**), which provide information regarding the use and application of biosolids in Tasmania.
- A producer or end-user of biosolids must be careful not to cause environmental harm, or to breach the General Environmental Duty set out in s 23A of the *Environmental Management and Pollution Control Act 1994* (Tas). Heavy penalties apply under this Act.
- A biosolids product must correspond to any description or sample of it, must be fit for the purpose it was sold and of merchantable quality. See the *Trade Practices Act 1974* (Cth), the *Fair Trading Act 1990* (Tas) and the *Sale of Goods Act 1896* (Tas).
- A duty of care is imposed upon employers dealing with biosolids to ensure their employees work in a safe and healthy environment and have the requisite training in the production, storage, transport and use of biosolids. See the *Workplace Health and Safety 1995* (Tas).

Key Regulatory Instruments

In Tasmania the key regulatory instruments for biosolids are:

- Tasmanian Biosolids Reuse Guidelines 1999;
- *Environmental Management and Pollution Control Act 1994* (Tas);
- *Environmental Management and Pollution Control (Waste Management) Regulations 2000* (Tas);
- *Land Use Planning and Approvals Act 1993* (Tas); and
- *State Policies and Projects Act 1993* (Tas).

Tasmanian Biosolids Reuse Guidelines 1999 ('The Tasmanian Guidelines')

The Tasmanian Guidelines are intended to provide a framework to allow the beneficial reuse of biosolids to proceed in a manner which is practical and safe for agriculture, the environment and the public. In addition, the Tasmanian Guidelines should allow this to happen in a manner consistent with industry standards and environmental best-management practice.

The Tasmanian Guidelines provide information regarding the beneficial use of biosolids in agriculture, outline best-management practices, establish a biosolids classification system, give sampling and analysis procedures for biosolids, detail land applications of biosolids and outline the correct disposal of biosolids products.

Prior to producing or using biosolids, the Tasmanian Guidelines should be consulted thoroughly.

Environmental Management and Pollution Control Act 1994 (Tas)

This Act is the primary environmental protection legislation in Tasmania for preventing environmental harm from pollution and waste management. The Act imposes heavy penalties for causing environmental harm. Companies and people dealing with biosolids must ensure that they do not incur liability under this Act.

Legislative Provision	Obligation	Suggested Action
s 5 Environmental	For the purposes of this Act, environmental harm is any adverse effect on the	Note the definition of environmental harm

Legislative Provision	Obligation	Suggested Action
harm	environment (of whatever degree or duration) and includes an environmental nuisance.	includes harm 'of whatever degree or duration'.
s 6 Responsibility for pollution	For the purposes of this Act, the occupier or person in charge of a place or vehicle at or from which a pollutant escapes or is discharged, emitted or deposited is taken to have polluted the environment with the pollutant (but without affecting the liability of any other person in respect of the escape, discharge, emission or depositing of the pollutant).	Where pollutants are discharged, emitted or despotised from a premise (and vehicle) the occupier or person in charge is taken to have polluted the environment.
s 23A General environmental duty	<p>1 A person must take such steps as are practicable or reasonable to prevent or minimise environmental harm or environmental nuisance caused, or likely to be caused, by an activity conducted by that person.</p> <p>2 In determining whether a person has complied with the general environmental duty, regard must be had to all the circumstances of the conduct of the activity, including but not limited to:</p> <p>(a) the nature of the harm or nuisance or likely harm or nuisance; and</p> <p>(b) the sensitivity of the environment into which a pollutant is discharged, emitted or deposited; and</p> <p>(c) the current state of technical knowledge for the activity; and</p> <p>(d) the likelihood and degree of success in preventing or minimising the harm or nuisance of each of the measures that might be taken; and</p> <p>(e) the financial implications of taking each of those measures.</p> <p>3 Failure to comply with subsection 1 does not itself constitute an offence or give rise to a civil right or remedy, but if a person has failed to comply with that subsection an environment protection notice may be issued to</p>	<p>The Act imposes a general duty upon persons to take practicable and reasonable steps to prevent or minimise environmental harm or nuisance, caused or likely to be caused, by an activity conducted by that person.</p> <p>Relevant circumstances to determine whether a person has met with their general environmental duty include:</p> <ul style="list-style-type: none"> • The nature of the harm or nuisance; • Sensitivity of the environment; • Current state of technological knowledge for activity; • Likelihood and degree of success in preventing or minimising harm; and • Financial implications by taking those measures.

Legislative Provision	Obligation	Suggested Action
	<p>that person.</p> <p>4 Where a person, in relation to an environmentally relevant activity, takes all measures specified, in a code of practice made and approved in accordance with the regulations, as meeting the requirements for compliance with the general environmental duty in respect of the activity, the person is taken to have complied with the general environmental duty in respect of the activity.</p>	
<p>s 50 Offences of causing serious environmental harm</p>	<p>1 A person who causes serious environmental harm by polluting the environment intentionally or recklessly and with the knowledge that serious environmental harm will or might result is guilty of an offence.</p> <p>Penalty: In the case of:</p> <p>(a) a body corporate, a fine not exceeding 10,000 penalty units; or</p> <p>(b) a natural person, a fine not exceeding 2 500 penalty units or imprisonment for a term not exceeding 4 years, or both.</p>	<p>A person must not cause serious environmental harm either intentionally or recklessly with the knowledge that serious environmental harm may result from their actions.</p> <p>Environmental harm is to be treated as serious environmental harm if:</p> <p>(i) it involves an actual adverse effect on the health or safety of human beings that is of a high impact or on a wide scale; or</p> <p>(ii) it involves an actual adverse effect on the environment that is of a high impact or on a wide scale; or</p> <p>(iii) it results in actual loss or property damage of an amount, or amounts in aggregate, exceeding ten times the threshold amount.</p> <p>'Threshold amount' means \$5000, or if a</p>

Legislative Provision	Obligation	Suggested Action
		greater amount is prescribed by regulation, that amount.
s 51 Offences of causing material environmental harm	<p>1 A person who causes material environmental harm by polluting the environment intentionally or recklessly and with the knowledge that material environmental harm will or might result is guilty of an offence.</p> <p>Penalty: In the case of:</p> <p>(a) a body corporate, a fine not exceeding 2 500 penalty units; or</p> <p>(b) a natural person, a fine not exceeding 1 200 penalty units or imprisonment for a term not exceeding 2 years, or both.</p> <p>2 A person who causes material environmental harm by polluting the environment is guilty of an offence.</p> <p>Penalty: In the case of:</p> <p>(a) a body corporate, a fine not exceeding 1 200 penalty units; or</p> <p>(b) a natural person, a fine not exceeding 600 penalty units.</p>	<p>Where a person causes material environmental harm by polluting the environment intentionally or recklessly with the knowledge that material harm may result the person is guilty of an offence.</p> <p>Environmental harm is to be treated as material environmental harm if:</p> <p>(i) it consists of an environmental nuisance of a high impact or on a wide scale; or</p> <p>(ii) it involves an actual adverse effect on the health or safety of human beings that is not negligible; or</p> <p>(iii) it involves an actual adverse effect on the environment that is not negligible; or</p> <p>(iv) it results in actual loss or property damage of an amount, or amounts in aggregate, exceeding the threshold amount.</p> <p>'Threshold amount' means \$5000, or if a greater amount is prescribed by regulation, that amount.</p>

Legislative Provision	Obligation	Suggested Action
s 51A Offence to deposit pollutant where environmental harm may be caused	<p>1 A person must not deposit a pollutant, or cause or allow a pollutant to be deposited, in a place or position where it could reasonably be expected to cause serious environmental harm.</p> <p>Penalty: In the case of:</p> <p>(a) a body corporate, a fine not exceeding 2500 penalty units; or</p> <p>(b) a natural person, a fine not exceeding 1200 penalty units.</p> <p>2 A person must not deposit a pollutant, or cause or allow a pollutant to be deposited, in a place or position where it could reasonably be expected to cause material environmental harm.</p> <p>Penalty: In the case of:</p> <p>(a) a body corporate, a fine not exceeding 1200 penalty units; or</p> <p>(b) a natural person, a fine not exceeding 600 penalty units.</p>	Producers and users of biosolids are under a strict statutory duty not to deposit pollutants or allow a pollutant to be deposited in a place where it could reasonably be expected to cause serious environmental harm.
s 52 Treatment of offences	<p>1 An offence against section 50, 51 or 51A is an indictable offence.</p> <p>2 Notwithstanding that an offence referred to in subsection 1 is an indictable offence, a court of summary jurisdiction may hear and determine proceedings in respect of such an offence if the court is satisfied that it is proper to do so and the defendant and prosecutor consent.</p>	Causing serious or material environmental harm, or polluting the environment is an indictable offence.
s 53 Offence of causing environmental nuisance	<p>1 A person who wilfully and unlawfully causes an environmental nuisance is guilty of an offence.</p> <p>Penalty: Fine not exceeding 300 penalty units.</p> <p>2 A person who unlawfully causes an environmental nuisance is guilty of an</p>	<p>Producers and users of biosolids must not wilfully and unlawfully cause an environmental nuisance.</p> <p>'Environmental nuisance' means:</p>

Legislative Provision	Obligation	Suggested Action
	<p>offence.</p> <p>Penalty: Fine not exceeding 100 penalty units.</p>	<p>(a) the emission of a pollutant that unreasonably interferes with, or is likely to unreasonably interfere with, a person's enjoyment of the environment; and</p> <p>(b) any emission specified in an environment protection policy to be an environmental nuisance.</p>

[Environmental Management and Pollution Control \(Waste Management\) Regulations 2000 \(Tas\)](#)

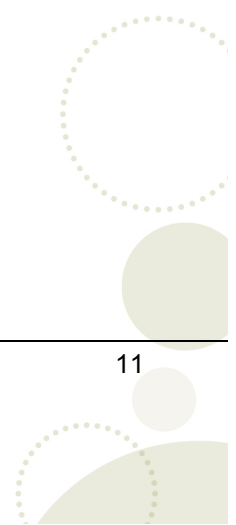
These Regulations regulate the management of wastes, and allow for the creation of approved management methods for wastes. The Approved Management Method for Biosolids Reuse (June 2006), made under these Regulations, sets out methods for dealing with biosolids.

Legislative Provision	Obligation	Suggested Action
reg 5 Controlled wastes	<p>For the purposes of the definition of 'controlled waste' in section 3 of the Act, a waste is prescribed as a controlled waste if it exhibits an environmentally significant characteristic and is one of the following:</p> <p>(a) derived or arising from agricultural produce or veterinary chemical products within the meaning of the <i>Agricultural and Veterinary Chemicals (Control of Use) Act 1995</i>;</p> <p>(b) a dangerous good within the meaning of the <i>Dangerous Substances (Safe Handling) Act 2005</i>;</p> <p>(ba) dangerous goods within the meaning of the <i>Dangerous Goods</i></p>	<p>Biosolids will be classified as a controlled waste where they exhibit an environmentally significant characteristic and fall within the definitions of the listed acts, regulations and National Management Plans.</p>

Legislative Provision	Obligation	Suggested Action
	<p>(Safe Transport) Act 1998;</p> <p>(c) derived or arising from poisons within the meaning of the <i>Poisons Act 1971</i>;</p> <p>(d) a waste within the meaning of the <i>Quarantine Regulations 2000</i> of the Commonwealth, as amended;</p> <p>(e) a scheduled waste within the meaning of a National Management Plan.</p>	
reg 7 Production, storage and treatment of controlled waste	<p>1 A person must not cause or permit a controlled waste to be produced, received, stored, reused, recycled, reprocessed, salvaged, incinerated, treated, disposed of or used for energy recovery in such a manner that it is reasonably likely that the controlled waste will:</p> <p>(a) leak, spill or escape into the environment; or</p> <p>(b) cause serious environmental harm, material environmental harm or environmental nuisance.</p> <p>Penalty: Fine not exceeding 100 penalty units.</p>	Where biosolids are classified as a controlled waste they must not be used in such a way that it is likely to leak, spill or escape into the environment and cause serious or material environmental harm or cause an environmental nuisance.
reg 8 Disposal of controlled waste	<p>1 A person must not deposit at any place a controlled waste in a manner that:</p> <p>(a) directly or indirectly causes, or is likely to cause, environmental harm; or</p> <p>(b) gives rise, or is likely to give rise, to any harmful concentration of any substance in any plant, animal, organism or soil above natural concentrations; or</p> <p>(c) adversely affects, or is likely to adversely affect, the use or value of receiving waters for recreational, commercial, domestic,</p>	Where biosolids are classified as a controlled waste they must not be deposited in a manner that directly or indirectly causes or is likely to cause environmental harm. Biosolids must not be diluted in an attempt to make it an uncontrolled waste unless the user has approval.

Legislative Provision	Obligation	Suggested Action
	<p>agricultural or industrial purposes; or</p> <p>(d) contains sufficient heat, or is likely to generate sufficient heat by itself or in combination with other matter, to ignite or cause fire; or</p> <p>(e) gives rise, or is likely to give rise, to undesirable, abnormal or harmful growth of a plant, animal, virus or organism.</p> <p>Penalty: Fine not exceeding 50 penalty units.</p> <p>2 A person must not dilute a controlled waste with any other waste or any other substance for the purpose of lowering the concentration of contaminants to a level where it is not a controlled waste requiring regulation, otherwise than –</p> <p>(a) as approved; or</p> <p>(b) in accordance with:</p> <p>(i) an environmental approval; or</p> <p>(ii) an approved management method.</p> <p>Penalty: Fine not exceeding 50 penalty units.</p>	
reg 12 Environmental approvals	<p>1 The Director may issue an environmental approval for the handling, production, receipt, storage, reuse, recycling, reprocessing, salvage, incineration, treatment, disposal or use for energy recovery of specified wastes or classes of waste.</p> <p>2 A person may apply in writing to the Director for an environmental approval under this Part.</p> <p>3 An application is to include the following details:</p>	<p>It is necessary to obtain approval for any of the activities listed in regulation 12(1), giving regard to the requirements set out in regulation 12(3).</p> <p>The 'Director' is the Director of the Environment Protection Authority Tasmania (EPA Tasmania).</p>

Legislative Provision	Obligation	Suggested Action
	<ul style="list-style-type: none"> (a) a description of the waste; (b) the physical state of the waste; (c) any hazardous characteristics of the waste; (d) any known contaminants in the waste and their concentration; (e) any contaminants that may reasonably be suspected to be in the waste; (f) any containment or packaging of the waste; (g) the amount of waste; (h) the origin of the waste, including – <ul style="list-style-type: none"> (i) the name and address of the waste producer; and (ii) the place of production of the waste; and (iii) the nature of the activity by which the waste is generated; (i) the period to which the application relates; (j) any proposed form of storage, disposal, reprocessing, reuse, recycling or energy recovery of the waste, including the rate of waste input; (k) any waste minimisation or management plans prepared by, or for, the applicant; (l) any risk management and environmental management measures to be undertaken; (m) any alternative options for reuse, reprocessing or recycling of the waste; (n) any monitoring measures, management process or sampling or 	



Legislative Provision	Obligation	Suggested Action
	<p>analysis proposed to prevent, or minimise the risk of, environmental harm;</p> <p>(o) any other information the Director requires to determine the application.</p> <p>4 An environmental approval may:</p> <p>(a) Specify:</p> <p>(i) the quantity and class or type of waste or individual consignment of waste that may be dealt with under the approval; and</p> <p>(ii) any other relevant characteristics of the waste to which the approval relates; and</p> <p>(b) give directions as to the manner in which the waste is to be managed to prevent or minimise the risk of environmental harm; and</p> <p>(c) specify the period for which the approval is in effect; and</p> <p>(d) include any other requirements the Director considers necessary or desirable to prevent or minimise the risk of environmental harm.</p>	

[Land Use Planning and Approvals Act 1993 \(Tas\)](#)

This Act establishes the framework for local planning schemes. Permits may be required for activities depending on the zoned land use set out in the local planning scheme. Development is guided by objectives including sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity. Sustainable development is defined to include avoiding, remedying or mitigating any adverse effects of activities on the environment. Another development objective promoting by this Act is the sharing of responsibility for resource management and planning between the different levels of government, the community and industry.

[State Policies and Projects Act 1993 \(Tas\)](#)

This Act sets out the matters to be considered in setting state policy with regard to land use planning, land management, environmental management and environmental protection and the sustainable development of natural and physical resources. This Act shares development objectives with the *Land Use Planning and Approvals Act 1993* (Tas) such as sustainable development and avoiding, remedying or mitigating any adverse environmental effects from activities.

[Sale of Goods Act 1896 \(Tas\)](#)

This Act codifies the law relating to the sale of goods in Tasmania. In particular, this Act sets out the basic elements for the formation of a contract of sale, the effect of such a contract, and the consequences of a breach of such a contract. Organisations dealing with biosolids should ensure that any contracts of sale between it and a biosolids customer meet the provisions set out in this Act. For provisions relating to the protection of consumers (a sub-set of customers), refer to the *Fair Trading Act 1990* (Tas) below.

Legislative Provision	Obligation	Suggested Action
s 17 Implied undertaking as to title, &c.	<p>In a contract of sale, unless the circumstances of the contract are such as to show a different intention, there is:</p> <ul style="list-style-type: none">(a) an implied condition on the part of the seller that in the case of a sale he has a right to sell the goods, and that in the case of an agreement to sell he will have a right to sell the goods at the time when the property is to pass;(b) an implied warranty that the buyer shall have and enjoy quiet possession of the goods;(c) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made.	<p>Sellers of biosolids must ensure that they have the right to sell biosolids and that the goods are free from any charge or encumbrance in favour of any third party.</p>

Legislative Provision	Obligation	Suggested Action
s 18 Sale by description	Where there is a contract for the sale of goods by description there is an implied condition that the goods shall correspond with the description; and if the sale be by sample as well as by description it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.	Where sellers of biosolids provide a description to buyers they must ensure that the description is accurate and truthful and corresponds to the biosolids supplied.
s 19 When conditions as to quality or fitness to be implied	<p>Subject to the provisions of this Act and of any Act in that behalf, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale, except as follows:</p> <p>(a) Where the buyer expressly or by implication makes known to the seller the particular purpose for which the goods are required so as to show that the buyer relies on the seller's skill or judgment, and the goods are of a description which it is in the course of the seller's business to supply (whether he be the manufacturer or not), there is an implied condition that the goods shall be reasonably fit for such purpose: Provided that in the case of a contract for the sale of a specified article under its patent or other trade name there is no implied condition as to its fitness for any particular purpose;</p> <p>(b) Where goods are bought by description from a seller who deals in goods of that description (whether he be the manufacturer or not) there is an implied condition that the goods shall be of merchantable quality: Provided that, if the buyer has examined the goods, there shall be no implied condition as regards defects which such examination ought to have revealed;</p> <p>(c) An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade;</p> <p>(d) An express warranty or condition does not negative a warranty or condition implied by this Act unless inconsistent therewith</p>	<p>Where the buyer of biosolids makes known the particular purpose for which the biosolids have been acquired and relies on the skill and judgement of the seller, then there is an implied condition that the goods are fit for such purpose. To ensure this implied condition is not contravened unintentionally, sellers should ensure they are aware of what purposes biosolids are reasonably fit for. In addition where sellers of biosolids are unsure as to whether the biosolids will be fit for the required purpose they should make this known to the buyer.</p> <p>Further there is an implied condition that biosolids will be of merchantable quality. Biosolids will be deemed to be merchantable if they are fit for the purposes for which it is they were acquired and are fit for purposes reasonable to expect them to be suitable, having regard to any price, descriptions and relevant circumstances.</p>

Legislative Provision	Obligation	Suggested Action
s 20 Sale by sample	<p>1 A contract of sale is a contract for sale by sample where there is a term in the contract express or implied to that effect.</p> <p>2 In the case of a contract for sale by sample there is an implied condition that:</p> <p>(a) the bulk shall correspond with the sample in quality;</p> <p>(b) the buyer shall have a reasonable opportunity of comparing the bulk with the sample; and</p> <p>(c) the goods shall be free from any defect rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.</p>	There is an implied condition that where there is a contract for sale by sample, the bulk of the biosolids will correspond with the sample in quality in addition to being free of any defect which would render them unmerchantable; that is, not of proper and sound quality.
s 25 Risk prima facie passes with property	Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but when the property therein is transferred to the buyer the goods are at the buyer's risk whether delivery has been made or not: Provided that, where delivery has been delayed through the fault of either buyer or seller the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault: Provided also that nothing in this section shall affect the duties or liabilities of either seller or buyer as a bailee or custodian of the goods of the other party.	<p>Unless the parties have otherwise agreed, the goods remain at the risk of the seller until the property is transferred to the buyer.</p> <p>If delivery has been delayed through either the fault of the buyer or seller, then the party responsible for the delay will bear the liability.</p>

[Fair Trading Act 1990 \(Tas\)](#)

This Act is the key instrument for consumer protection in Tasmania. This Act replicates sections of the *Trade Practices Act 1974* (Cth). Reference should also be made to this Commonwealth Act.

Most importantly for those dealing with biosolids, the Act prohibits misleading, unconscionable conduct and false representations regarding goods & services. The Act allows for damages and other remedies where such conduct occurs.

Legislative Provision	Obligation	Suggested Action
s 14 Misleading or deceptive conduct	See section 52 of the <i>Trade Practices Act 1974</i> (Cth) in the Commonwealth section of this Register. Penalty: In the case of: (a) a body corporate, a fine not exceeding 1000 penalty units; or (b) an individual, a fine not exceeding 200 penalty units.	See the action policy for section 52 of the <i>Trade Practices Act 1974</i> (Cth) in the Commonwealth section of this Register.
s 15 Unconscionable conduct	See section 51AB of the <i>Trade Practices Act 1974</i> (Cth) in the Commonwealth section of this Register. Penalty: In the case of: (a) a body corporate, a fine not exceeding 1000 penalty units; or (b) an individual, a fine not exceeding 200 penalty units.	See the action policy for section 51AB of the <i>Trade Practices Act 1974</i> (Cth) in the Commonwealth section of this Register.
s 15A Unconscionable conduct in business transactions	See section 51AC of the <i>Trade Practices Act 1974</i> (Cth) in the Commonwealth section of this Register.	See the action policy for section 51AC of the <i>Trade Practices Act 1974</i> (Cth) in the Commonwealth section of this Register.
s 16 False representations	See section 53 of the <i>Trade Practices Act 1974</i> (Cth) in the Commonwealth section of this Register. Penalty: Fine not exceeding 200 penalty units in the case of a person other than a corporation or 1000 penalty units in the case of a corporation.	See the action policy for section 53 of the <i>Trade Practices Act 1974</i> (Cth) in the Commonwealth section of this Register.
s 20 Misleading	See section 55 of the <i>Trade Practices Act 1974</i> (Cth) in the Commonwealth	See the action policy for section 55 of the

Legislative Provision	Obligation	Suggested Action
conduct in relation to goods	<p>section of this Register.</p> <p>Penalty: Fine not exceeding 200 penalty units in the case of a person other than a corporation or 1000 penalty units in the case of a corporation.</p>	<i>Trade Practices Act 1974 (Cth)</i> in the Commonwealth section of this Register.

[Workplace Health and Safety Act 1995 \(Tas\)](#)

Employees in workplaces in Tasmania handling biosolids are protected by this Act. This Act sets out the laws regarding health and safety in Tasmanian workplaces, imposes obligations on people who may affect the health and safety of others and sets out procedures for setting up workplace health and safety committees and appointing representatives within workplaces. The Act also provides for the establishment of regulations and industry Codes of Practice which must be complied with where they exist.

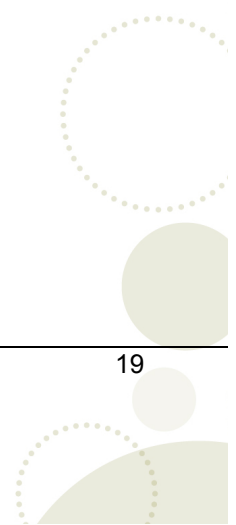
An employer in control of a workplace dealing with biosolids must ensure that it provides a safe workplace for its employees. The key obligation to do so is provided in section 9.

Further health and safety precautions are set out in the Tasmanian Guidelines, discussed above. They specify that as biosolids may contain microorganisms that could be harmful to people who come into contact with the material, sensible care should be exercised when handling biosolids products. A number of practices are suggested.

Legislative Provision	Obligation	Suggested Action
s 9 Duties of employers	<p>1 An employer must, in respect of each employee employed by the employer, ensure so far as is reasonably practicable that the employee is, while at work, safe from injury and risks to health and, in particular, must:</p> <p>(a) provide and maintain so far as is reasonably practicable:</p> <p>(i) a safe working environment; and</p> <p>(ii) safe systems of work; and</p>	<p>Employers who have employees that use and handle biosolids must so far as is reasonably practicable provide and maintain:</p> <ul style="list-style-type: none"> • a safe working environment; • safe systems of work; • facilities to ensure the welfare of

Legislative Provision	Obligation	Suggested Action
	<p>(iii) plant and substances in a safe condition; and</p> <p>(b) provide facilities of a prescribed kind for the welfare of employees at any workplace that is under the control or management of the employer; and</p> <p>(c) provide any information, instruction, training and supervision reasonably necessary to ensure that each employee is safe from injury and risks to health.</p> <p>Penalty: In the case of:</p> <p>(a) a body corporate, a fine not exceeding 1 500 penalty units; or</p> <p>(b) a natural person, a fine not exceeding 500 penalty units.</p> <p>2 Without limiting subsection 1, an employer must so far as is reasonably practicable:</p> <p>(a) if hazards exist and have been identified to the employer, in writing, by the Director, monitor the health of employees in their employment with the employer to ensure the prevention of work-related injuries and illnesses; and</p> <p>(b) keep records relating to work-related injuries and illnesses suffered by employees in their employment with the employer and retain those records for such period as is prescribed; and</p> <p>(c) provide information to the employer's employees, in such languages as are appropriate, in relation to health, safety and welfare in the workplace (including the names of persons to whom the employees may make inquiries and complaints about matters affecting occupational health, safety or welfare); and</p> <p>(d) ensure that any employee of the employer who is to undertake work</p>	<p>employees.</p> <p>Employers must provide information, training and supervision to employees to ensure they are safe from injury and risks to health.</p>

Legislative Provision	Obligation	Suggested Action
	<p>of a hazardous nature, which, to the employer's knowledge, the employee has not previously performed, receives proper information, instruction and training before the employee commences that work; and</p> <p>(e) ensure that any employee of the employer who is inexperienced in the performance of any work receives such supervision as is reasonably necessary to ensure the employee's health and safety; and</p> <p>(f) ensure that any employee of the employer who could be put at risk by a change in the workplace, in any work or work practice, in any activity or process or in any plant:</p> <p>(i) is given proper information, instruction and training before the change occurs; and</p> <p>(ii) receives such supervision as is reasonably necessary to ensure the employee's health and safety; and</p> <p>(g) ensure that any responsible officer, manager or supervisor appointed by the employer is provided with any information, instruction and training reasonably necessary to ensure that each employee under his or her management or supervision is, while at work, safe from injury and risks to health; and</p> <p>(h) monitor working conditions at any workplace that is under the control or management of the employer; and</p> <p>(i) ensure that any accommodation, or eating, recreational or other facility, provided for the benefit of the employer's employees while they are at work, or in connection with the performance of their work, and under the control or management of the employer, either wholly or substantially, is maintained in a safe and healthy condition.</p>	



Legislative Provision	Obligation	Suggested Action
	Penalty: In the case of: <ul style="list-style-type: none"> (a) a body corporate, a fine not exceeding 1 500 penalty units; or (b) a natural person, a fine not exceeding 500 penalty. 	
s 10 Responsible officer	1 An employer is to appoint a responsible officer for each workplace at which the employer carries on business. 2 If an employer fails to appoint a responsible officer for a workplace, the person responsible for the direction and management of the business of the employer at that workplace is taken to have been appointed as the responsible officer for that workplace	Employers are required to appoint responsible Workplace Health and Safety officers for each workplace.
s 11 Duties of responsible officer	1 A responsible officer must perform the duties of his or her employer under this Act at the workplace for which he or she is the responsible officer. Penalty: Fine not exceeding 250 penalty units.	The Workplace Health and Safety officer is responsible for performing duties under this Act.
s 26 Health and safety committees	Where more than 20 persons are working at a workplace, whether or not they are employed or engaged by an employer who is a principal, the employer who has control or management of that workplace must, if requested by a majority of those persons, establish a health and safety committee for that workplace not later than 2 months after being requested to do so. Penalty: In the case of: <ul style="list-style-type: none"> (a) a body corporate, a fine not exceeding 200 penalty units; and (b) a natural person, a fine not exceeding 100 penalty units. 	Employers who employ more than 20 persons at a workplace must establish a health and safety committee if requested by a majority of those employees.

