

Briefing Note: Waste as an essential service

Tuesday, 31 March 2026

The table below examines whether, as at 31 March 2026, the management of waste is considered to be an ‘essential service’ across Australian states and territories. Please contact us if you wish to discuss further.

State	Act(s)	Power	Application to waste
NSW	<i>Essential Services Act 1988</i> (NSW) (NSW Act)	<p>The Governor may make a proclamation regarding an essential service and then make a regulation to, for example, regulate or direct the provision of an essential service, or expedite the provision of the essential service (including the terms on which it is provided).¹</p> <p>The Governor’s power to make this proclamation arises when the Governor takes the view that, “from any cause”, the essential service is, or is likely for any period:</p> <ol style="list-style-type: none"> (1) to cease, or (2) to be interrupted or reduced, or (3) to be provided in a manner that does not or is not likely to meet the reasonable requirements of the community, or (4) otherwise to be rendered insufficient for the reasonable requirements of the community.² <p>Additionally, the Governor can proclaim a state of emergency in relation to an essential service.³ Once this proclamation has been</p>	<p>Under the NSW Act, the ‘provision of garbage, sanitary cleaning or sewerage services’ is listed as an essential service.⁵</p> <p>Additionally, the Governor may, by order published on the NSW legislation website, declare any (other) service to be an essential service.⁶</p>

¹ NSW Act ss 8 and 9.

² NSW Act s 8.

³ NSW Act s 10.

State	Act(s)	Power	Application to waste
		made, the Premier may give any directions to any person to regulate, direct and/or expedite the essential service. ⁴	
VIC	<i>Essential Services Act 1958</i> (Vic) (VIC Act)	<p>The VIC Act allows the Governor in Council to make a proclamation of emergency where an essential service is likely to be interrupted.⁷</p> <p>The Premier has the power to provide, operate, control, regulate and direct any essential service during a period of emergency.⁸</p> <p>The Premier may, among other things, direct what services shall be maintained and upon what terms and conditions they operate, prohibit the operation or use of services, and requisition the use of property of any kind which is used in connection with the operation or maintenance of any essential service.⁹</p> <p>Any person or body who fails to comply with any direction under the VIC Act is guilty of an offence.¹⁰</p>	Under the VIC Act, garbage or waste services is not listed as an essential service. The Governor may, however, specify any service to be an essential service. ¹¹
ACT	<i>Emergencies Act 2004</i> (ACT) (ACT Act)	<p>Part 7.3 of the ACT Act gives the government powers to ensure continued supply of essential services in times of emergency.</p> <p>The Chief Minister can declare a state of emergency exists if they are satisfied that an emergency has happened, is happening or likely to arise.¹² The Chief Minister may also appoint an Emergency Controller if a state of emergency has arisen or is likely to arise, who is then responsible for the maintenance, restoration and prevention of</p>	The ACT Act designates ‘waste disposal’ as an example of an essential service. ¹⁵

⁵ NSW Act s 4(1)(g).

⁶ NSW Act s 4(2).

⁴ NSW Act s 11.

⁷ VIC Act s 4(1).

⁸ VIC Act s 5(1).

⁹ VIC Act s 5(3).

¹⁰ VIC Act s 15.

¹¹ VIC Act, s 3.

¹² ACT Act s 155.

State	Act(s)	Power	Application to waste
		<p>disruption to essential services, as well as the control and coordination of distributing those services.¹³</p> <p>Failure to comply with a direction given under emergency powers, such as those relating to essential services, is a strict liability offence.¹⁴</p>	
QLD	<p><i>Disaster Management Act 2003</i> (QLD) (QLD Act)</p>	<p>A “disaster” is defined in the QLD Act as a:</p> <p><i>serious disruption in a community, caused by the impact of an event, that requires a significant coordinated response by the State and other entities to help the community recover from the disruption.</i>¹⁶</p> <p>The Minister for Natural Disaster and Emergency Management and the Premier have the power to declare a disaster situation for the State, if they are satisfied that:</p> <ul style="list-style-type: none"> a) a disaster has happened, is happening or is likely to happen, in the disaster district; and b) it is necessary, or reasonably likely to be necessary, for the relevant person to exercise their declared disaster powers to prevent or minimise, inter alia, loss of life, illness or injury.¹⁷ <p>In a disaster situation, any relevant person, being either a district disaster coordinator or declared disaster officer appointed under the QLD Act, has a general power to maintain, restore, or prevent the destruction of, essential services.¹⁸ Although the term ‘essential services’ is not defined in the QLD Act, the following examples of</p>	<p>Under the QLD Act, waste collection and processing is not expressly identified as an essential service.²⁰</p>

¹⁵ ACT Act ss 150C.

¹³ ACT Act s 150A, 150C(2)(h).

¹⁴ ACT Act s 164.

¹⁶ QLD Act s 13.

¹⁷ QLD Act s 64.

¹⁸ QLD Act s 77.

State	Act(s)	Power	Application to waste
		essential services are given: gas, electricity, telecommunications, water and sewerage infrastructure. ¹⁹	
NT	<i>Essential Goods and Services Act 1981</i> (NT) (NT Act)	<p>Under the NT Act, a declaration can be made that a shortage exists in relation to essential services if the government is satisfied that the provision, supply or distribution of these services is, or is likely to become, less than is sufficient for the reasonable requirements of a community.²¹</p> <p>Where such a declaration is in force, the Minister for Renewables, Energy and Essential Services may take any action deemed appropriate to ensure that those essential services are preserved to an acceptable level in the interests of the community, such as directing what services shall be maintained and the terms and conditions upon which they will operate.²²</p>	<p>Garbage collection, sanitary cleansing or sewerage is identified as an essential service falling under the NT Act.²³</p> <p>However, the NT Act does not provide any specific power enabling the Minister to declare a particular service as essential.</p>
WA	<i>Emergency Management Act 2005</i> (WA) (WA Act)	<p>In WA, there is no essential services-specific legislation. However, the government's powers in the event a state of emergency is declared could be used to direct the coordination and prevention of disruption to essential services.</p> <p>The WA Act provides a number of powers in the event a state of emergency is declared. This includes a power to direct public authorities, which can include directing them to do or refrain from doing any act or performing any function.²⁴ For example, on 20 March 2020, the State Emergency Coordinator issued a <i>Public Authorities</i></p>	<p>There is no legislation in WA which defines waste collection and processing as an essential service.</p> <p>However, the WA Direction does indicate that waste collection is recognised to be an important service during a state of emergency.</p>

²⁰ QLD Act s 48A.

¹⁹ QLD Act s 48A.

²¹ NT Act s 5.

²² NT Act s 7.

²³ NT Act s 2(1)(a)(vi).

²⁴ WA Act s 74.

State	Act(s)	Power	Application to waste
		<i>(Delivery of Goods and Collection of Rubbish and Refuse) Directions (WA Direction)</i> . ²⁵ Under the WA Direction, a public authority is prevented from restricting the collection of rubbish and refuse.	
SA	<i>Emergency Management Act 2004</i> (SA) (EMA Act) <i>Essential Services Act 1981</i> (SA) (SA Act)	Essential service is defined in the SA Act as: <i>a service (whether provided by a public or private undertaking) without which the safety, health or welfare of the community or a section of the community would be endangered or seriously prejudiced.</i> ²⁶ The SA Act allows the Governor, by proclamation, to declare a period of emergency exists in relation to an essential service. ²⁷ The Governor can give directions in relation to the provision or use of proclaimed essential services, such as restrictions or prohibitions. ²⁸ Under the EMA Act, the State Co-ordinator has the power to do anything reasonably necessary to protect public health (e.g. closing non-essential business). ²⁹	Under the SA Act, waste management is not expressly identified as an essential service.
TAS	<i>Emergency Management Act 2006</i> (Tas) (TAS Act)	Tasmania does not have an equivalent Act relating to essential service provision.	There is no Act under which waste management is defined as an essential service.

²⁵ Pursuant to WA Act s 74.

²⁶ SA Act s 2.

²⁷ SA Act s 3(1).

²⁸ SA Act s 4.

²⁹ EMA Act s 25.

Contacts



Elisa de Wit

Partner

Norton Rose Fulbright Australia

M +61 402 893 804

elisa.dewit@nortonrosefulbright.com



Rebecca Hoare

Partner and Australian Head of Environment and Planning

Norton Rose Fulbright Australia

M +61 410 262 005

rebecca.hoare@nortonrosefulbright.com



Jacqueline Plant

Partner

Norton Rose Fulbright Australia

M +61 413 314 535

jacqueline.plant@nortonrosefulbright.com