

Prosecution Bulletin no. 2/2018

Summary

- The Ipswich Magistrates Court has found a man guilty of unlawfully transporting asbestos and failing to record the proper information about the transport in a waste transport certificate.
- Following a two day trial in February 2018, the man was fined \$36,000 for the two environmental offences and was ordered to pay legal costs of \$4,500 and investigation costs of \$1,241.20.
- The sentence was delivered in the Ipswich Magistrates Court on 23 February 2018.
- The offences arose when the man transported asbestos from Haigslea to Swanbank on 7 August 2015 without an environmental authority (EA).

Facts

Environmental officers from the Department of Environment and Science (**the Department**) attended a site at Haigslea in 2014 and 2015, observing what they believed to be asbestos material at the site.

In 2015, an inspector from Workplace Health and Safety Queensland also observed asbestos material on the site. Samples of the material were found to contain asbestos. A penalty infringement notice was issued for unlawfully storing asbestos on the site in the amount of \$11,385.

The man was asked to remove the asbestos and told DES officers that he would find a company to transport it.

Despite not having an EA to transport the asbestos, on 7 August 2015, the man was observed by a witness departing the site in a truck which contained asbestos material.

Later that day, the man arrived in the truck at a facility at Swanbank and deposited approximately 21 tonnes of asbestos. DES officers became aware of discrepancies on the waste tracking certificate, and investigations revealed that the transport was carried out unlawfully and that the prescribed information had not been provided in the waste tracking certificate.

The man had attempted to conceal the unlawful transport by recording a de-registered company as the transporter, using an EA number that had been cancelled, and recording the contact details of a person who was later found to be in Melbourne at the time of the transport.

As a result the man was charged with carrying out an environmentally relevant activity (ERA 57 Regulated waste transport) without an EA contrary to section 426(1) of the *Environmental Protection Act 1994* (**the Act**), and failing to record the prescribed information and give it to the receiver in contravention of section 81J(2) of the *Environmental Protection Regulation 2008* (**the Regulation**).

Outcome

On 23 February 2018, the man was found guilty of both environmental offences by the Ipswich Magistrates Court.

The man was fined \$35,000 for unlawfully transporting asbestos in contravention of section 426(1) of the Act and \$1,000 for the waste tracking offence in contravention of section 81J(2) of the Regulation. The man was also ordered to pay legal costs of \$4,500 and investigation costs of \$1,241.20. No conviction was recorded.

The Court found that the man was responsible for transporting the asbestos and that he did so without approval. The Court also considered that it was relevant that he declared on the waste tracking certificate that the material he transported was asbestos.

The Court accepted that the offending was serious and that the transport of asbestos is regulated because asbestos has the potential to release contaminants into the environment and cause harm to human health.

It was also accepted that management of waste is a vital part of protecting the environment and that the penalty imposed should send a message to all operators in the waste management industry that environmental obligations must be taken seriously and complied with.

In sentencing the man, the Court took into account that he had pleaded not guilty to the offences, his financial position and the high maximum penalties available.

This prosecution serves as an important reminder that the Department regards carrying out ERAs without the appropriate approval and failing to provide the required information in a waste tracking certificate as serious matters. Individuals doing business in Queensland must ensure that they comply with their environmental obligations.

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