



Queensland

Waste Reduction and Recycling and Other Legislation Amendment Act 2013

Act No. 6 of 2013



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Waste Reduction and Recycling and Other Legislation Amendment Act 2013

Act No. 6 of 2013

**An Act to amend the Coastal Protection and Management Act 1995, the
Environmental Protection Act 1994, the Environmental Protection
(Greentape Reduction) and Other Legislation Amendment Act 2012 and the
Waste Reduction and Recycling Act 2011 for particular purposes**

[Assented to 14 March 2013]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Waste Reduction and Recycling and Other Legislation Amendment Act 2013*.

1A Commencement

Section 28 commences on a day to be fixed by proclamation.

Part 2 Amendment of Coastal Protection and Management Act 1995

2 Act amended

This part amends the *Coastal Protection and Management Act 1995*.

Note—

See also the amendments in the schedule.

3 Amendment of s 123 (Right to occupy and use land on which particular tidal works were, or are to be, carried out)

(1) Section 123—

insert—

‘(3A) In addition, this section applies if operational work that is tidal works are to be carried out in accordance with an IDAS code.’.

(2) Section 123(4)(a), after ‘permit’—

insert—

‘or the IDAS code’.

(3) Section 123(5)—

insert—

‘**IDAS code** means a code for self-assessable development for IDAS under the Planning Act.

tidal works does not include the reclamation of land under tidal water.’.

(4) Section 123(3A) to (5)—

renumber as section 123(4) to (6).

4 **Amendment of s 167 (Regulation-making power)**

Section 167—

insert—

‘(6) A regulation may declare a statutory instrument or another document to be a code for IDAS under the Planning Act.’.

5 **Amendment of schedule (Dictionary)**

(1) Schedule—

insert—

‘**reclamation**, of land under tidal water, means raising the land above high-water mark, whether gradually and imperceptibly or otherwise, by carrying out works, including dredging and the depositing of solid material.’.

(2) Schedule, definition *tidal works*, paragraph 2—

omit, insert—

[s 6]

‘2 *Tidal works* includes—

- (a) the construction or demolition of a basin, boat ramp, breakwater, bridge, dam, dock, dockyard, embankment, groyne, jetty, pipeline, pontoon, powerline, seawall, slip, small craft facility, training wall or wharf; and
- (b) works in tidal water necessarily associated with the construction or demolition mentioned in paragraph (a); and
- (c) the reclamation of land under tidal water.’

Part 3 **Amendment of Environmental Protection Act 1994**

6 **Act amended**

This part amends the *Environmental Protection Act 1994*.

Note—

See also the amendments in the schedule.

7 **Amendment of s 13 (Waste)**

- (1) Section 13(5)(a), ‘delivered to a levyable’—

omit, insert—

‘disposed of at a’.

- (2) Section 13(6), definition *levyable waste disposal site*—

omit.

- (3) Section 13(6)—

insert—

‘*waste disposal site* see the Waste Reduction Act, section 8A.’

Part 4 **Amendment of Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012**

8 Act amended

This part amends the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*.

Note—

See also the amendments in the schedule.

9 Insertion of new s 4A

After section 4—

insert—

‘4A Amendment of s 39 (Other definitions)

‘Section 39, definition *business days*—

omit.’.

Editor’s note—

Legislation ultimately amended—

- *Environmental Protection Act 1994*

10 Amendment of s 8 (Insertion of new chs 5 and 5A)

(1) Section 8, inserted section 110—

omit, insert—

‘110 What is a *mining activity*

‘A *mining activity* is—

- (a) an activity that is an authorised activity for a mining tenement under the Mineral Resources Act; or

- (b) another activity that is authorised under an approval under the Mineral Resources Act that grants rights over land.’.
- (2) Section 8, inserted section 112, definition *eligibility criteria*—
omit.
- (3) Section 8, inserted section 112—
insert—
‘**application stage**, for an application, means the stage of the assessment process carried out for the application under part 2.
decision stage, for an application, means the stage of the assessment process carried out for the application under part 5.
eligibility criteria, for an environmentally relevant activity, means the eligibility criteria that are in effect for the activity under section 318, 707A or 707B.
information stage, for an application, means the stage of the assessment process carried out for the application under part 3.
notification stage, for an application, means the stage of the assessment process carried out for the application under part 4.’.
- (4) Section 8, inserted section 116(2)—
omit, insert—
- ‘(2) An application under subsection (1) may also be made jointly by 2 or more entities.
- ‘(3) This section is subject to sections 117 to 120.’.
- (4A) Section 8, inserted section 167(2)—
omit, insert—
- ‘(2) The decision stage for the application starts on the later of the following days—

- (a) the day the Coordinator-General gives the proponent a copy of the Coordinator-General's report under the State Development Act;
 - (b) the day after all other stages applying to the application have ended.'.
- (5) Section 8, inserted section 206—

omit, insert—

'206 Environmental authority for particular resource activities includes condition prohibiting use of restricted stimulation fluids

- '(1) This section applies for an environmental authority issued for a resource activity other than a mining activity.
- '(2) The environmental authority is taken to include a condition prohibiting the use of restricted stimulation fluids.

Example for subsection (2)—

the use of hydrocarbon chemicals to stimulate the fracturing of coal seams

- '(3) The condition mentioned in subsection (2) is taken to be a standard condition imposed on the environmental authority.
- '(4) In this section—

restricted stimulation fluids means fluids used for the purpose of stimulation, including fracturing, that contain the following chemicals in more than the maximum amount prescribed under a regulation—

- (a) petroleum hydrocarbons containing benzene, ethylbenzene, toluene or xylene;
 - (b) chemicals that produce, or are likely to produce, benzene, ethylbenzene, toluene or xylene as the chemical breaks down in the environment.'.
- (6) Section 8, inserted section 243, definitions *amalgamated corporate authority*, *amalgamated local government authority* and *amalgamated project authority*—

omit, insert—

‘amalgamated corporate authority means an amalgamated environmental authority that is not an amalgamated local government authority or an amalgamated project authority.

amalgamated local government authority means an amalgamated environmental authority for which the holder is a local government.

amalgamated project authority means an amalgamated environmental authority for which the relevant activities are carried out as a single integrated operation.’.

- (7) Section 8, inserted section 245—

omit, insert—

‘245 Who may apply

‘(1) The holder of 2 or more environmental authorities may, at any time, apply to the administering authority for a new environmental authority (an *amalgamated environmental authority*) for all activities for the authorities.

‘(2) However, if an environmental authority is held jointly by 2 or more entities, the environmental authority can not be the subject of an amalgamation application unless all of the environmental authorities, the subject of the application, are held jointly by the same entities.’.

- (8) Section 8, inserted section 266(2), from ‘A’ to ‘end—’—

omit, insert—

‘Of the following periods that apply to a surrender application, a decision under subsection (1) about the application must be made within the later of the periods to end—’.

- (9) Section 8, inserted part 11, heading—

omit, insert—

**‘Part 11 Cancellation or suspension of
environmental authorities by
administering authority’.**

(9A) Section 8, inserted section 278(2)—

insert—

‘(ba) the administering authority has, under section 306,
required the holder of the environmental authority to
change the amount of financial assurance and the holder
has not complied with the requirement;’.

(10) Section 8, after inserted section 284—

insert—

**‘Part 11A Suspension of environmental
authorities by application**

‘Division 1 Preliminary

‘284A Who may apply

‘The holder of an environmental authority may, at any time,
apply to the administering authority to suspend the
environmental authority (a *suspension application*).

‘Division 2 Suspension applications

‘284B Requirements for suspension application

‘(1) A suspension application must—

- (a) be made to the administering authority; and
- (b) be made in the approved form; and
- (c) be accompanied by the fee prescribed under a
regulation; and

- (d) nominate the period of the proposed suspension.
- ‘(2) The nominated period of the proposed suspension—
- (a) must be for at least 1 year from the next anniversary day of the environmental authority; and
 - (b) can not be for longer than 3 years from the next anniversary day of the environmental authority.

‘Division 3 Deciding suspension applications

‘284C Deciding suspension application

‘The administering authority must, within 20 business days after receiving the suspension application, decide whether to—

- (a) approve the application; or
- (b) refuse the application.

‘284D Criteria for deciding suspension application

‘In deciding the application, the administering authority must consider—

- (a) the degree of risk of environmental harm that has already been caused by the relevant activity, or that might reasonably be expected to be caused during the suspension of the relevant activity; and
- (b) the likelihood of action being required to rehabilitate or restore and protect the environment because of environmental harm being caused during the suspension of the relevant activity; and
- (c) the environmental record of the holder.

‘284E Restrictions on giving approval

‘The administering authority may approve the application only if the environmental authority is not subject to conditions requiring rehabilitation.

‘284F Steps after deciding suspension application

- ‘(1) The administering authority must, within 5 business days after deciding a suspension application—
- (a) if the decision is to approve the suspension of the environmental authority—
 - (i) record the suspension in the appropriate register, including when the suspension period starts and ends; and
 - (ii) give the holder of the environmental authority written notice of the decision; or
 - (b) if the decision is to refuse the suspension—give the holder an information notice about the decision.
- ‘(2) The environmental authority is suspended for the period stated in the decision notice, unless the holder of the environmental authority terminates the suspension before the end of the suspension period.

‘Division 4 Termination of suspension

‘284G Termination of suspension

- ‘(1) The holder of an environmental authority that has been suspended under this part may, by notice given to the administering authority, terminate the suspension of the environmental authority.
- ‘(2) The notice—
- (a) may be given—
 - (i) before the suspension takes effect; or
 - (ii) during the suspension period; and

(b) must be accompanied by the fee prescribed under a regulation.’.

(11) Section 8, inserted section 318K(b)—

omit, insert—

‘(b) the chief executive is satisfied the operator is not suitable to be registered as a suitable operator having regard to the applicant’s environmental record.’.

(12) Section 8, inserted section 318R(1)—

omit, insert—

‘(1) The chief executive may investigate a person or another entity to help decide whether—

(a) an applicant is suitable to be a registered suitable operator; or

(b) a disqualifying event has happened in relation to the person or another person.’.

Editor’s note—

Subsections (1) to (12), legislation ultimately amended—

- *Environmental Protection Act 1994*

11 Amendment of s 9 (Replacement of ss 321–326)

(1) Section 9, inserted section 326E—

insert—

‘(3) In this section—

recipient, for an environmental report, means the person who received a notice under section 323(2) or 326B(2) requiring the person to give the administering authority the report.’.

(2) Section 9, inserted section 326F—

insert—

‘(4) In this section—

recipient, for an environmental report about an environmental investigation, means the person required to submit the report to the administering authority under section 326B(2).’

(3) Section 9, inserted section 326G—

insert—

‘(9) In this section—

recipient, for an environmental report about an environmental investigation, means the person required to submit the report to the administering authority under section 326B(2).’

(4) Section 9, inserted section 326H—

insert—

‘(2) In this section—

recipient, for an environmental report, means the person who received a notice under section 323(2) or 326B(2) requiring the person to give the administering authority the report.’

(5) Section 9, inserted section 326I(6)—

omit, insert—

‘(6) A person given a notice about a requirement under subsection (2) must comply with the requirement within the period stated in the notice.

Maximum penalty for subsection (6)—300 penalty units.

‘(7) In this section—

recipient, for an environmental report about an environmental investigation, means the person required to submit the report about the investigation to the administering authority under section 326B(2).’

Editor’s note—

Subsections (1) to (5), legislation ultimately amended—

- *Environmental Protection Act 1994*

12 Replacement of s 31 (Omission of ss 426A and 427)

Section 31—

omit, insert—

‘31 Replacement of ss 426A and 427

‘Sections 426A and 427—

omit, insert—

‘427 Offence to operate under environmental authority if not a registered suitable operator in particular circumstances

‘The holder of an environmental authority must not carry out an environmentally relevant activity if the person—

(a) has become the holder of the authority under a non-assessable transfer under resource legislation; and

(b) is not a registered suitable operator.

Maximum penalty—100 penalty units.’.’.

Editor’s note—

Legislation ultimately amended—

- *Environmental Protection Act 1994*

13 Amendment of s 47 (Replacement of ss 540 and 541)

Section 47, inserted section 540A(1)(c)(iv), ‘registered’—

omit.

Editor’s note—

Legislation ultimately amended—

- *Environmental Protection Act 1994*

14 Amendment of s 58 (Insertion of new ch 12, pts 3–3A)

(1) Section 58, inserted section 574, ‘the approval’—

omit, insert—

‘the approval, unless it is earlier cancelled or suspended.’.

(2) Section 58, inserted section 574A(2)—

omit, insert—

- ‘(2) However, an auditor must not perform a function mentioned in section 568 if the auditor has a direct or indirect financial interest in a matter or thing relevant to the exercise of the function, other than any fee paid to the auditor for performing the function.

Maximum penalty for subsection (2)—100 penalty units.’

Editor’s note—

Subsections (1) and (2), legislation ultimately amended—

- *Environmental Protection Act 1994*

15 Amendment of s 60 (Insertion of new ch 13, pt 18)

- (1) Section 60, inserted section 676, definition *former—*

omit.

- (2) Section 60, inserted section 676—

insert—

‘**chapter 4 activity** means a chapter 4 activity under the unamended Act, schedule 4.

code of environmental compliance means a code of environmental compliance under the unamended Act, schedule 4.

conversion application—

- (a) for division 5—see section 695; or
(b) for division 5A—see section 698B.

environmental authority (chapter 5A activities) means an environmental authority (chapter 5A activities) under former section 309A(3).

environmental authority (mining activities) means an environmental authority (mining activities) under former section 146(2).

[s 15]

former, for a provision mentioned in this part, means the provision as in force immediately before the amendment or repeal of the provision under the amending Act.

former holder see section 698A.

non-transitional ERA see section 676A(1).

registration certificate means a registration certificate under former section 73F.

standard environmental conditions means standard environmental conditions under the unamended Act, schedule 4.

surrendered registration certificate see section 698A.’.

- (3) Section 60, inserted part 18, division 2—

insert—

‘Subdivision 1 Non-transitional ERAs

‘676A Environmentally relevant activity may be prescribed as non-transitional ERA

- ‘(1) A regulation may prescribe a section 19 activity as an environmentally relevant activity for which the development authority or registration certificate for the activity does not transition to an environmental authority after the commencement (a *non-transitional ERA*).

- ‘(2) In this section—

section 19 activity means an activity that, before the commencement, was prescribed under section 19 as an environmentally relevant activity.

‘Subdivision 2 Chapter 4 activities that are not transitioned

‘676B Application of sdiv 2

‘This subdivision applies to a non-transitional ERA.

‘676C Continuing effect of unamended Act for non-transitional ERA

- ‘(1) The unamended Act continues to apply to a non-transitional ERA until a day prescribed under a regulation.
- ‘(2) However, the unamended Act, section 427 does not apply to a person who starts carrying out a chapter 4 activity after the commencement.

‘Subdivision 3 Chapter 4 activities that are transitioned

‘676D Application of sdiv 3

‘This subdivision does not apply to a non-transitional ERA.’.

- (3A) Section 60, inserted section 678(2)(b), from ‘enacted’—
omit, insert—
‘enacted.’.
- (3B) Section 60, inserted section 678(2)(c)—
omit.
- (3C) Section 60, after inserted section 678—
insert—

‘678A Application to convert particular existing conditions into environmental authority

- ‘(1) Subsection (2) applies if—

- (a) immediately before the commencement, a development permit for a chapter 4 activity is in effect, but no registration certificate for the activity was issued; or
 - (b) after the commencement, a development permit for a chapter 4 activity comes into effect under section 678.
- ‘(2) A person may apply to the chief executive to convert the development conditions of the permit into an environmental authority for a prescribed ERA.
- ‘(3) Subsection (4) applies if—
- (a) immediately before the commencement—
 - (i) a UDA development approval for a chapter 4 activity is in effect; and
 - (ii) UDA development conditions (the *relevant conditions*) of the UDA development approval nominate the administering authority to be the nominated assessing authority for the conditions under the ULDA Act, section 58(a); and
 - (iii) no registration certificate for the activity was issued; or
 - (b) after the commencement—
 - (i) a PDA development approval for a chapter 4 activity, applied for before the commencement, comes into effect; and
 - (ii) PDA development conditions (also the *relevant conditions*) of the UDA development approval nominate the administering authority to be the nominated assessing authority for the conditions under the *Economic Development Act 2012*, section 88(a); and
 - (iii) no registration certificate for the activity is issued.
- ‘(4) A person may apply to the chief executive to convert the relevant conditions into an environmental authority for a prescribed ERA.
- ‘(5) In this section—

PDA development approval see the *Economic Development Act 2012*, schedule 1.

PDA development condition see the *Economic Development Act 2012*, section 85(4)(b).

‘678B Requirements for conversion application

- ‘(1) An application under section 678A must—
- (a) be written; and
 - (b) describe all environmentally relevant activities for the application; and
 - (c) describe the land on which each activity will be carried out; and
 - (d) state whether the applicant is a registered suitable operator for the carrying out of the activity; and
 - (e) if the applicant is not a registered suitable operator for the carrying out of the activity, include an application, under section 318F, for registration as a suitable operator for the carrying out of the activity; and
 - (f) state whether the applicant wants any environmental authority granted for the application to take effect on a day nominated by the applicant.
- ‘(2) No fee is payable for an application under section 678A.

‘678C Criterion for decision

‘An application under section 678A may be granted only if the applicant is a registered suitable operator for the carrying out of the activity.

‘678D Grant of environmental authority for conversion

- ‘(1) If the chief executive decides to approve an application under section 678A(2)—

- (a) the chief executive must grant the applicant an environmental authority for a prescribed ERA; and
 - (b) the development conditions of the permit become the conditions of the environmental authority.
- ‘(2) If the chief executive decides to approve an application under section 678A(4)—
- (a) the chief executive must grant the applicant an environmental authority for a prescribed ERA; and
 - (b) the relevant conditions under section 678A(3) become the conditions of the environmental authority.

‘678E When environmental authority takes effect

‘The environmental authority has effect—

- (a) if the authority states that it takes effect on the day nominated by the holder of the authority in a written notice given to the chief executive—on the nominated day; or
- (b) otherwise—on the day the authority is issued.

‘678F Notice of decision

- ‘(1) This section applies if—
- (a) the chief executive decides to refuse the application; and
 - (b) the application was made together with an application, under section 318F, for registration as a suitable operator for the carrying out of the activity.
- ‘(2) The notice that the chief executive must give the applicant under section 318I(2) must include notice of the decision.’.
- (3D) Section 60, inserted section 681—
- insert—*
- ‘(5) If subsection (4) does not apply and a registration certificate is given for the application, the registration certificate is taken to be one to which section 677 applies.’.

(4) Section 60, inserted section 684—

insert—

‘(3) In this section—

level 1 mining project means a level 1 mining project under former section 151(1).’

(5) Section 60, after inserted section 698—

insert—

‘Division 5A Suspended activities

‘698A Application of div 5A

‘This division applies if, before the commencement, a person (the *former holder*)—

- (a) surrendered a registration certificate for a development permit (a *surrendered registration certificate*) that, but for the surrender, would be taken under section 677 to be an environmental authority under chapter 5; or
- (b) surrendered a registration certificate (also a *surrendered registration certificate*) that, but for the surrender, would be taken under section 680 to be an environmental authority under chapter 5.

‘698B Application to convert surrender of registration certificate to suspension of environmental authority

‘The former holder may, within 2 years after the commencement, apply (a *conversion application*) to the administering authority to convert the surrendered registration certificate to an environmental authority that has been suspended under chapter 5, part 11A.

‘698C Application of ch 5, pt 11A, divs 2 to 4 to conversion application

‘Chapter 5, part 11A, divisions 2 to 4 apply to the conversion application as if the conversion application were a suspension application.

‘698D Effect of conversion

- ‘(1) This section applies if the conversion application is approved.
- ‘(2) From the day of the conversion, the former holder of the surrendered registration certificate becomes—
 - (a) the holder of an environmental authority that has been suspended under chapter 5, part 11A; and
 - (b) a registered suitable operator.
- ‘(3) From the day of the conversion—
 - (a) for a surrendered registration certificate mentioned in section 698A(a)—the development conditions of the development permit become conditions of the suspended environmental authority; or
 - (b) for a surrendered registration certificate mentioned in section 698A(b)—the standard environmental conditions of the code of environmental compliance become conditions of the suspended environmental authority, as standard conditions.
- ‘(4) The anniversary day for the suspended environmental authority is—
 - (a) for a surrendered registration certificate mentioned in section 698A(a)—the same as the anniversary day that applied to the registration certificate immediately before the commencement; or
 - (b) for a surrendered registration certificate mentioned in section 698A(b)—the anniversary day for the registration certificate.’
- (6) Section 60, inserted section 701(1)(a)—

omit, insert—

‘(a) an old authority becomes, under section 682 or 690, an environmental authority under chapter 5 (the ***new authority***); and’.

(7) Section 60, inserted section 701—

insert—

‘(6) In this section—

environmental management plan means an environmental management plan under the unamended Act, schedule 4.

old authority means any of the following under the unamended Act—

- (a) an environmental authority (exploration);
- (b) an environmental authority (mineral development);
- (c) an environmental authority (mining lease);
- (d) an environmental authority (prospecting);
- (e) an environmental authority (mining claim);
- (f) an environmental authority (chapter 5A activities).’.

(8) Section 60, inserted section 705—

insert—

‘(1A) However, this section does not apply to a person who holds a registration certificate for a non-transitional ERA.’.

(9) Section 60, after inserted section 707—

insert—

‘707A Eligibility criteria and standard conditions for particular environmentally relevant activities

‘(1) This section applies for an environmentally relevant activity if, immediately before the commencement, the activity would have constituted either of the following and would have been subject to a code of environmental compliance under the unamended Act—

- (a) a chapter 4 activity, or aspects of a chapter 4 activity;

- (b) a mining activity.
- ‘(2) From the commencement—
- (a) the matters identified as eligibility criteria in the code of environmental compliance are taken to be the eligibility criteria for the environmentally relevant activity until new eligibility criteria for the activity take effect under section 318(3); and
- (b) standard environmental conditions of the code of environmental compliance are taken to be the standard conditions for the environmentally relevant activity until new standard conditions for the activity take effect under section 318D(5).

‘707B Eligibility criteria prescribed for mining activities

- ‘(1) A regulation may prescribe eligibility criteria for a mining activity.
- ‘(2) Eligibility criteria for a mining activity that are prescribed under subsection (1) are in addition to any eligibility criteria for the mining activity that are in effect under section 707A(2)(a).
- ‘(3) This section expires 3 years after the commencement.
- ‘(4) This section is declared to be a law to which the *Acts Interpretation Act 1954*, section 20A applies.’
- (10) Section 60, inserted section 710(1), after ‘a term’—
- insert—*
- ‘of the unamended Act’.

Editor’s note—

Subsections (1) to (10), legislation ultimately amended—

- *Environmental Protection Act 1994*

16 Amendment of s 61 (Amendment of sch 2 (Original decisions))

(1) Section 61(1), inserted schedule 2, part 1, division 3—
insert—

‘284C refusal of suspension application for an environmental authority for a resource activity’.

(2) Section 61(1), inserted schedule 2, part 2, division 2—
insert—

‘284C refusal of suspension application for an environmental authority for a prescribed ERA’.

Editor’s note—

Subsections (1) and (2), legislation ultimately amended—

- *Environmental Protection Act 1994*

17 Amendment of s 62 (Amendment of sch 4 (Dictionary))

(1) Section 62(2), definitions *amending Act* and *standard conditions*—

omit.

(2) Section 62(2)—

insert—

‘application stage, for chapter 5, see section 112.

conversion application—

(a) for chapter 13, part 18, division 5—see section 695; or

(b) for chapter 13, part 18, division 5A—see section 698B.

decision stage, for chapter 5, see section 112.

information stage, for chapter 5, see section 112.

[s 18]

notification stage, for chapter 5, see section 112.

person, for chapter 3, part 1, see section 39.

progressive rehabilitation report means a report complying with section 318ZF.

standard conditions—

- (a) for an environmental authority—means the standard conditions to which the authority is subject; or
- (b) for an application for an environmental authority—means the standard conditions that are in effect for the relevant activity or authority under section 318D or 707A.

suspension application, for an environmental authority, see section 284A.’.

- (3) Section 62(2), definition *plan of operations*, before ‘see’—
insert—
‘division 1,’.

Editor’s note—

Subsections (1) to (3), legislation ultimately amended—

- *Environmental Protection Act 1994*

Part 5 **Amendment of Waste Reduction and Recycling Act 2011**

18 **Act amended**

This part amends the *Waste Reduction and Recycling Act 2011*.

Note—

See also the amendments in the schedule.

19 Amendment of s 5 (Approach to achieving Act's objects)

- (1) Section 5(b) and (c)—
omit.
- (2) Section 5(d) to (n)—
renumber as section 5(b) to (l).
- (3) Section 5(l), as renumbered, '(m)'—
omit, insert—
'(k)'.

20 Omission of ch 2, pt 2 (Business plan for State's waste management strategy)

- Chapter 2, part 2—
omit.

21 Replacement, renumbering and relocation of s 27 (Meaning of *levyable waste disposal site*)

- (1) Section 27—
omit, insert—

'27 Meaning of *waste disposal site*

'A *waste disposal site* is a waste facility to which both of the following apply—

- (a) the operator of the facility is required to hold an environmental authority for the disposal of waste at the facility;
 - (b) waste delivered to the facility commonly includes waste that is subsequently disposed of to landfill at the facility.'
- (2) Section 27, as inserted under subsection (1)—
renumber and *relocate*, in chapter 1, part 3, division 2, as section 8A.

[s 22]

22 Omission of ch 3, pt 1 (Preliminary)

Chapter 3, part 1—

omit.

23 Omission of ch 3, pts 2 and 3

Chapter 3, parts 2 and 3—

omit.

24 Omission of ch 3, pt 4, div 1 (Obligations of person delivering waste)

Chapter 3, part 4, division 1—

omit.

25 Replacement of ss 42–43

Sections 42 and 43—

omit, insert—

‘Part 1 Weighbridges

‘43 Weighbridge requirement provision

- ‘(1) This section applies to a waste disposal site prescribed under a regulation.
- ‘(2) If the operator of a waste disposal site is required to hold a registration certificate for the disposal of more than 10000t of waste in a year at the site, the operator must ensure that a weighbridge is installed at the site on or before a day prescribed under a regulation.
- ‘(3) The weighbridge must be kept in proper working order.
- ‘(4) If any event results in the weighbridge being out of operation, the weighbridge must be brought into operation in the shortest practicable time.

-
- ‘(5) Despite subsection (2), the operator of a waste disposal site is not required to ensure that a weighbridge is installed at the site if it is planned to close the site within 1 year after the operator would otherwise be required, under the subsection, to ensure a weighbridge is installed at the site.’

26 Amendment of s 44 (Measurement of waste by weighbridge)

- (1) Section 44(1)—

omit, insert—

- ‘(1) This section applies if a weighbridge is installed at a waste disposal site prescribed under a regulation, whether or not the weighbridge is required under the weighbridge requirement provision.’

- (2) Section 44(2), after ‘must’—

insert—

‘, unless the operator has a reasonable excuse.’

- (3) Section 44(3) and (4)—

omit, insert—

- ‘(3) However, subsection (2) does not apply if waste is delivered to or moved from the site in a vehicle with a GCM or a GVM of less than 4.5t.’

27 Omission of ss 45–51

Sections 45 to 51—

omit.

28 Replacement of s 52 (Submission of waste data returns)

Section 52—

omit, insert—

‘Part 2 Waste data returns

‘52 Submission of waste data returns

- ‘(1) This section applies to a waste disposal site prescribed under a regulation.
- ‘(2) The operator of the waste disposal site must, on or before the day prescribed under a regulation, give the chief executive a return in the approved form (a *waste data return*) for the period prescribed under a regulation (a *reporting period*).
- Maximum penalty—300 penalty units.
- ‘(3) Without limiting subsection (2), information that an approved form of waste data return may require includes information about—
- (a) the types and amount of waste—
 - (i) delivered to the site; or
 - (ii) disposed of to landfill at the site; or
 - (iii) moved from the site to a place outside the site; and
 - (b) if a weighbridge is installed at the site—the operation of the weighbridge during the reporting period for the site.
- ‘(4) A regulation may prescribe different reporting periods for waste disposal sites of different types or sizes.’.

29 Omission of s 53 (Requirement for operator of levyable waste disposal site to keep particular documents)

Section 53—
omit.

30 Omission of s 54 (Waste levy evasion)

Section 54—
omit.

-
- 31 Omission of ch 3, pt 4, div 3 and pts 5 to 7**
Chapter 3, part 4, division 3 and parts 5 to 7—
omit.
- 32 Amendment of s 123 (Local government’s waste reduction and recycling plan obligation)**
(1) Section 123(1), from ‘the day’ to ‘section,’—
omit, insert—
‘the day prescribed under a regulation,’.
- (2) Section 123(1)(b), ‘, after the commencement of this section’—
omit.
- 33 Omission of s 129 (Copy of plan or amendment to be given to chief executive)**
Section 129—
omit.
- 34 Amendment of s 132 (What is a State entity and who is its chief executive)**
(1) Section 132(1)(b)(i)—
omit, insert—
‘(i) under the *Public Service Act 2008*, is a government entity but is not a government owned corporation; and’.
- (2) Section 132(1)(c)—
omit.
- 35 Amendment of s 133 (State entity’s waste reduction and recycling plan obligation)**
(1) Section 133(1), from ‘the day’ to ‘section,’—

[s 36]

omit, insert—

‘the day prescribed under a regulation.’.

- (2) Section 133(1)(b), ‘after the commencement of this section’—

omit.

36 Amendment of s 141 (Planning entity’s waste reduction and recycling plan obligation)

- (1) Section 141(1)(b), ‘after the commencement of this section’—

omit.

- (2) Section 141(4)—

omit, insert—

- ‘(4) However, subsection (3) does not start to apply to a planning entity until the day prescribed under a regulation.’.

37 Omission of s 146 (Requirement to give copy of adopted plan to chief executive)

Section 146—

omit.

38 Amendment of s 147 (Local government reporting)

- (1) Before section 147(1)—

insert—

- ‘(1AA) This section does not start to apply to a local government until 2 months after the end of the first full financial year after the day prescribed for the local government under section 123(1).’.

- (2) Section 147(3), ‘levyable’—

omit.

39 Amendment of s 148 (State entity reporting)

(1) Before section 148(1)—

insert—

‘(1AA) This section does not start to apply to the chief executive officer of a State entity until 2 months after the end of the first full financial year after the day prescribed for the State entity under section 133(1).’.

(2) Section 148(3)—

omit.

40 Amendment of s 149 (Planning entity reporting)

Section 149(2)(a), ‘commencement of this section’—

omit, insert—

‘day prescribed for the planning entity under section 141(4)’.

41 Amendment of s 150 (Identification of reporting entity)

(1) Section 150(2)—

omit, insert—

‘(2) Also, an entity is a **reporting entity** if the entity—

- (a) receives, sorts, recycles, treats or disposes of waste above a threshold prescribed under a regulation; and
- (b) is part of a sector of entities (a **sector of reporting entities**) prescribed under a regulation.’.

(2) Section 150—

insert—

‘(5) A regulation for this section may prescribe different thresholds for—

- (a) different entities; or
- (b) different types of waste; or
- (c) entities in different locations in the State.’.

[s 42]

42 Amendment of s 153 (Requirements for report)

Section 153(2), ‘levyable’—
omit.

43 Amendment of s 245 (Definitions for ch 11)

Section 245, definition *prescribed provision*, paragraph (a)—
omit, insert—

‘(a) section 43(2), 44(3), 52(1), 101, 103(1), 104(1), 107(1),
108, 109(1) or (2), 112(2), 141(3), 149(1), 152(2), 167,
301E or 301F; or’.

44 Amendment of s 249 (Restriction on giving compliance notice)

Section 249—
insert—

- ‘(3) Subsection (4) applies if the contravention of a prescribed provision is a contravention of section 43(2).
- ‘(4) The chief executive may give the person a compliance notice about the contravention only if the chief executive is satisfied that the waste disposal site where the weighbridge is required to be installed is not planned to be closed within 1 year after the requirement in section 43(2) started to apply to the operator of the site.’.

45 Amendment of s 251 (Person must comply with notice)

Section 251, penalty—
omit, insert—

‘Maximum penalty—

- (a) if the compliance notice relates to a contravention of section 107(1), 108, or 109(1) or (2)—40 penalty units;
or

- (b) if the compliance notice relates to a contravention of section 43(3) or (4)—200 penalty units; or
- (c) otherwise—300 penalty units.’.

46 Amendment of s 253 (When waste audit required)

Section 253(4), definition *prescribed provision*—
omit, insert—

‘prescribed provision means section 43(2), 44(3), 52(1), 101, 104, 301E or 301F.’.

47 Amendment of s 271 (Regulation-making power)

Section 271(4)—
omit.

48 Insertion of new ch 15A

After section 301—
insert—

‘Chapter 15A Validation and transitional provisions for Waste Reduction and Recycling and Other Legislation Amendment Act 2013

‘Part 1 Preliminary

‘301A Definitions for ch 15A

‘In this chapter—

[s 48]

commencement means the commencement of this section.

levyable waste disposal site means a levyable waste disposal site under the unamended Act, section 27.

resource recovery area means a resource recovery area under the unamended Act, section 61.

unamended Act means this Act as in force before the commencement.

Waste and Environment Fund means the Waste and Environment Fund under the unamended Act, schedule.

waste levy means the waste levy under the unamended Act, section 37.

waste levy amount means a waste levy amount under the unamended Act, section 26.

‘Part 2 Validation provision

‘301B Validation of repeal of waste levy on 1 July 2012

- ‘(1) It is declared that the amendments made by the *Waste Reduction and Recycling Amendment Regulation (No. 1) 2012* to repeal the waste levy on 1 July 2012 are taken to be, and to always been, as valid as they would have been if the amendments had been made by this Act.
- ‘(2) Despite anything else in this Act or any regulation made under this Act, for the period starting on 1 July 2012 and ending on the commencement of this section, no waste levy is or was payable by the operator of a levyable waste disposal site in relation to any type of waste.

‘Part 3 Transitional provisions

‘301C Operator of levyable waste disposal site to keep documents

‘Section 53, as in force immediately before the commencement, continues to apply, after the commencement, to a person who was an operator of a levyable waste disposal site before the commencement in relation to the keeping of documents mentioned in the section.

‘301D Estimation of waste levy amount payable

- ‘(1) The chief executive may take action or continue to take action under section 60, as in force immediately before the commencement—
- (a) if the circumstances mentioned in section 60(1) in relation to the payment of the waste levy and the calculation of the waste levy amount payable by the operator of a levyable waste disposal site for a particular period apply; and
 - (b) despite the repeal of section 60.
- ‘(2) Subsection (1) applies until 1 July 2018.

‘301E Keeping of particular documents in relation to resource recovery areas

‘Despite the repeal of section 65, an entity having responsibility for the operation of a resource recovery area before the commencement must keep the following documents relating to the area for at least 5 years after the happening of the event recorded—

- (a) any document that records waste delivered to the area, including its measurements;
- (b) any document that records waste removed from the area, including its destination and its measurements;

[s 48]

- (c) any document that records any other event for the area as prescribed under a regulation.

Maximum penalty—300 penalty units.

‘301F Keeping of results of volumetric survey for resource recovery area

‘Despite the repeal of section 66, the entity having responsibility for a resource recovery area before the commencement must ensure that a copy of the results of any volumetric survey performed under that section for the area is kept as a document in hard copy or electronic form, at the site whose operator made the declaration of the area as a resource recovery area, for 5 years after the survey is performed.

Maximum penalty—200 penalty units.

‘301G Waste levy amounts and the Waste and Environment Fund

- ‘(1) Any transactions in relation to waste levy amounts that, before the commencement, would have been managed through the Waste and Environment Fund are to be managed after the commencement through the departmental accounts of the department.

- ‘(2) In this section—

departmental accounts, of the department, means the accounts of the department under the *Financial Accountability Act 2009*, section 69.

‘301H Discounted levy and waste levy exemption

‘Chapter 15, parts 2 and 3 are taken to have had effect only until 30 June 2012.

‘301I Existing strategic plans under repealed waste management policy

- ‘(1) This section applies despite section 300.
- ‘(2) Section 300(1) and (2) continues in effect until a waste reduction and recycling plan under section 123 is adopted by the local government.
- ‘(3) Section 300(3) and (4) continues in effect until a waste reduction and recycling plan under section 133 is adopted by the chief executive officer of a State entity.

‘301J Clinical and related waste management plans

‘Despite section 301(2), the planning entity to which section 301 applies must, by the day prescribed under a regulation, have a new waste reduction and recycling plan that complies with chapter 6.’

49 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *active landfill cell, biosecurity related Act, biosecurity waste, charitable recycling entity, clean earth, contaminated soil, disaster, disaster management waste, disaster situation, dredge spoil, exempt waste, exempt waste application, green waste, lawfully managed and transported asbestos, levyable waste, levyable waste disposal site, levy period, municipal solid waste, residue waste, residue waste discounted levy rate criteria, residue waste discounting application, resource recovery area, resource recovery deduction, small site, stockpiled waste, transition period, transition period exempt residue waste application, waste data return, waste levy, waste levy amount, waste levy instalment agreement, waste levy zone* and *WMS business plan*—
omit.
- (2) Schedule—
insert—

[s 50]

‘**GCM** see the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2010*, schedule 8.

GVM see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

reporting period, for a waste data return, see section 52(2).

waste data return see section 52(2).

waste disposal site see section 8A.’

Part 6 Minor amendments

50 Acts amended

The schedule amends the Acts it mentions.

Schedule	Acts amended
-----------------	---------------------

section 50

Coastal Protection and Management Act 1995

1 Section 124(1), ‘123(4)’—

omit, insert—

‘123(5)’.

2 Section 124(8), ‘123(5)’—

omit, insert—

‘123(6)’.

Environmental Protection Act 1994

1 Sections 37(1), 60(2), 150(g), 151, 161(b), 162(3)(b), 163(1)(a), 163A(b), 203(1)(e), 205(1)(a), 206(b)(iia), 210(2), 222, 309Z(5), 310E, 310M(d), 310O(5), 310V and 310Y(1)(c), ‘significant project’—

omit, insert—

‘coordinated project’.

2 Section 37(1)(c)(ii), editor’s note—

omit, insert—

‘Note—

See the State Development Act, part 4, divisions 2 (Coordinated project) and 3 (EIS process).’.

3 Sections 162(3)(b), editor's note and 310E(5), note—

omit, insert—

'Note—

For EISs for coordinated projects, see the State Development Act, section 28 (Application of divs 3–8) and part 4, division 3 (EIS process).'

4 Sections 363N(1)(c), 482(2), definition *authorised person*, paragraph (b) and 486(1)(c), 'section 467(2)(b)'—

omit, insert—

'section 467(1)(b).'

5 Schedule 4, definitions *Coordinator-General's report* and *significant project*, 'significant project'—

omit, insert—

'coordinated project.'

Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012

Editor's note—

Amendments 1 to 23, legislation ultimately amended—

- *Environmental Protection Act 1994*

1A Section 8, inserted section 112, definitions *eligible ERA*, paragraph (b) and *ineligible ERA*, paragraph (c), 'significant project'—

omit, insert—

'coordinated project.'

-
- 1 Section 8, inserted sections 116(1) and 117, ‘A person’—**
omit, insert—
‘An entity’.
- 2 Section 8, inserted section 117, ‘the person’—**
omit, insert—
‘the entity’.
- 3 Section 8, inserted section 118(1), ‘a person’—**
omit, insert—
‘an entity’.
- 4 Section 8, inserted section 118(2), ‘person’—**
omit, insert—
‘entity’.
- 5 Section 8, inserted section 125(1)(f), ‘persons’—**
omit, insert—
‘entities’.
- 6 Section 8, inserted sections 130(2) and 132(4), ‘person’—**
omit, insert—
‘entity’.
- 6A Section 8, inserted sections 142, 143, 167, 190(2), 192(b) and 205(1)(b), ‘significant project’—**
omit, insert—
‘coordinated project’.

- 7 Section 8, inserted section 194(4)(b)(ii), ‘to—’—**
omit, insert—
‘to the following—’.
- 8 Section 8, inserted section 208(2)(b), ‘works comply’—**
omit, insert—
‘work complies’.
- 9 Section 8, inserted sections 222(c) and 252, ‘a person’—**
omit, insert—
‘an entity’.
- 10 Section 8, inserted section 252, examples, ‘person’—**
omit, insert—
‘entity’.
- 11 Section 8, inserted section 256(1)(a), ‘a person’—**
omit, insert—
‘an entity’.
- 12 Section 8, inserted section 256(1)(b) and (2), ‘person’—**
omit, insert—
‘entity’.
- 13 Section 8, inserted section 260, ‘A person’—**
omit, insert—
‘The holder of an environmental authority’.

-
- 14 Section 8, inserted section 260, ‘person’—**
omit, insert—
‘holder’.
- 15 Section 8, inserted sections 299, 300 and 301, ‘person’—**
omit, insert—
‘entity’.
- 16 Section 8, inserted section 308(2), after ‘notice’—**
insert—
‘complying with subsection (3)’.
- 17 Section 8, inserted section 315(1), ‘person’—**
omit, insert—
‘entity’.
- 18 Section 8, inserted section 318C(2), ‘and (4)’—**
omit, insert—
‘to (5)’.
- 19 Section 8, inserted section 318D(5), ‘take effect on’—**
omit, insert—
‘made under this section have effect from’.
- 20 Section 8, inserted section 318F(1), ‘A person’—**
omit, insert—
‘An entity’.

Schedule

- 21 Section 8, inserted section 318H(a), ‘a suitable person’—**
omit, insert—
‘suitable’.
- 22 Section 9, inserted sections 322(1)(a), 323(2)(a) and 324(1)(d)(i), ‘conduct or’—**
omit.
- 22A Section 62(2), inserted definition *application documents*, paragraph (c), ‘significant project’—**
omit, insert—
‘coordinated project’.
- 23 Schedule, amendment of the *Environmental Protection Act 1994*, amendments 11 to 15—**
omit, insert—
- ‘14 Section 375(1), editor’s note—**
omit, insert—
‘*Note—*
See section 565 (Only suitably qualified person can perform regulatory functions).’.
- ‘15 Sections 377(1), 390(1), 391(1), 403(1) and 406(2)—**
insert—
‘*Note—*
See section 565 (Only suitably qualified person can perform regulatory functions).’.’.
- 24 Schedule, amendment of the *Geothermal Energy Act 2010*, amendment 4—**
omit.

25 Schedule, amendment of the *Greenhouse Gas Storage Act 2009*, amendment 3—

omit.

26 Schedule, amendment of the *Petroleum Act 1923*, amendment 3—

omit.

27 Schedule, amendment of the *Petroleum and Gas (Production and Safety) Act 2004*, amendment 3—

omit.

28 Schedule, amendment of the *Waste Reduction and Recycling Act 2011*, amendment 1, ‘27(1)(b)’—

omit, insert—

‘27(a)’.

Editor’s note—

Legislation ultimately amended—

- *Waste Reduction and Recycling Act 2011*

29 Schedule, amendment of the *Waste Reduction and Recycling Act 2011*, amendment 2—

omit, insert—

‘2 Sections 43(2) and 101, ‘a registration certificate’—

omit, insert—

‘an environmental authority’.’.

Editor’s note—

Legislation ultimately amended—

- *Waste Reduction and Recycling Act 2011*

30 Schedule, amendment of the *Waste Reduction and Recycling Act 2011*, amendment 3—

omit.

Waste Reduction and Recycling Act 2011

1 Chapter 2, heading—

omit, insert—

‘Chapter 2 Waste management strategy’.

2 Chapter 2, part 1, heading—

omit.

3 Chapter 2, part 1, division 1, heading—

omit, insert—

‘Part 1 Introduction’.

4 Chapter 2, part 1, division 2, heading—

omit, insert—

‘Part 2 Draft waste management strategy’.

5 Chapter 2, part 1, division 3, heading—

omit, insert—

‘Part 3 Making of waste management strategy’.

6 Section 19(1), ‘division 2’—

omit, insert—

‘part 2’.

7 Chapter 2, part 1, division 4, heading—

omit, insert—

‘Part 4 Review and progress reporting’.

8 Chapter 3, heading—

omit, insert—

‘Chapter 3 Obligations of operator of waste disposal site’.

9 Chapter 3, part 4, heading—

omit.

10 Chapter 3, part 4, division 2, heading—

omit.

10A Section 258(7), definition *prescribed offence*, ‘53,’—

omit.

11 Chapter 15, heading—

omit, insert—

‘Chapter 15 Transitional provisions for Act No. 31 of 2011’.