



Queensland

# Waste Reduction and Recycling (Container Refund Scheme) Amendment Regulation 2018

## Subordinate Legislation 2018 No. 167

made under the

*Waste Reduction and Recycling Act 2011*

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**1 Short title**

This regulation may be cited as the *Waste Reduction and Recycling (Container Refund Scheme) Amendment Regulation 2018*.

**2 Commencement**

This regulation commences on 1 November 2018.

**3 Regulation amended**

This regulation amends the *Waste Reduction and Recycling Regulation 2011*.

**4 Insertion of new pts 3A and 3B**

After part 3—

*insert—*

**Part 3A                      Container refund  
scheme**

**Division 1                Prescribed matters for  
definitions**

**12 Refund amount—Act, s 99K**

For section 99K of the Act, definition *refund amount*, the refund amount is 10c.

**13 Requirements for refund marking—Act, s 99K**

(1) For section 99K of the Act, definition *refund marking*, the marking or labelling about the refund amount payable for a container under the scheme—

(a) must state—

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- (i) the refund amount; and
  - (ii) that the refund amount may be claimed at a container refund point, however described, in a participating State; and
- (b) must be of a colour and size that ensures the marking or labelling is clear and legible for the container.
- (2) In this section—
- participating State* means Queensland or a corresponding jurisdiction.

#### **14 Excluded liquids—Act, s 99L**

- (1) The following liquids are not beverages for section 99L of the Act—
- (a) milk;
  - (b) cordial intended to be diluted before being consumed;
  - (c) concentrated fruit juice, or vegetable juice, intended to be diluted before being consumed;
  - (d) a health tonic;
  - (e) a syrup.
- (2) In this section—
- health tonic* means—
- (a) a liquid included in the Australian Register of Therapeutic Goods maintained under the *Therapeutic Goods Act 1989* (Cwlth), section 9A; or
  - (b) another liquid supplied with a label or accompanying document stating—
    - (i) that the liquid is for medicinal purposes; and

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- (ii) a recommended maximum dose of the liquid.

*milk* includes—

- (a) a milk product, other than the following—
  - (i) flavoured milk;
  - (ii) a product made by fermenting milk or adding a culture to milk, including, for example, drinking yoghurt; and
- (b) a plant-based milk substitute.

*Examples of milk*—

- milk concentrate
- milk powder
- almond or soy milk

## **15 Excluded containers—Act, s 99M**

- (1) The following containers are not containers for section 99M of the Act—
  - (a) a container made to contain less than 150ml, or more than 3L, of a beverage;
  - (b) a container made of glass to contain—
    - (i) wine, other than wine mixed with another beverage not made from grapes; or
    - (ii) a spirituous liquid, other than a spirituous liquid mixed with another beverage that is not a spirituous liquid;
  - (c) a container made to contain 1L or more of—
    - (i) flavoured milk; or
    - (ii) a beverage that is at least 90% fruit juice or vegetable juice;
  - (d) a container made—

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- (i) of cardboard and either plastic or foil, or both (commonly known as a cask or aseptic packaging); and
- (ii) to contain 1L or more of wine, a wine-based beverage or water;
- (e) a container made—
  - (i) of plastic or foil, or both (commonly known as a sachet); and
  - (ii) to contain 250ml or more of wine.
- (2) In this section—

**wine** means a beverage that—

  - (a) is made by fermenting grapes, whether or not the beverage is mixed with another beverage made from grapes; and
  - (b) is not mixed with any beverage made other than from grapes.

**wine-based beverage** means a beverage that—

  - (a) is a mixture of wine and another beverage not made from grapes; and
  - (b) contains ethyl alcohol (ethanol) of at least 10% by volume.

## **Division 2            Sale of beverages in                                  containers**

### **16 Other matters for container recovery agreement—Act, s 99Q**

For section 99Q(4)(f) of the Act, for a container recovery agreement between the Organisation and a manufacturer of a beverage product, the other matters are—

- (a) for a breach of the agreement by either party to the agreement—

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- (i) the effect of the breach; and
  - (ii) a process to manage the breach and its effect; and
- (b) a process for either party to the agreement to end the agreement.

**17 Standard term for all container recovery agreements—Act, s 99Q**

- (1) This section prescribes, for section 99Q(5) of the Act, a standard term for a container recovery agreement between the Organisation and the manufacturer of a beverage product.
- (2) A scheme contribution amount for the manufacturer of the beverage product is worked out using the scheme price for the type of container used for the product.
- (3) In this section—  
*scheme price*, for a type of container, means the price, expressed in cents, published by the Organisation on its website as the unit price payable by manufacturers of beverage products for a container of that type.

**18 Further standard terms for particular container recovery agreements—Act, s 99Q**

- (1) This section prescribes, for section 99Q(5) of the Act, further standard terms for a container recovery agreement between the Organisation and a small beverage manufacturer.
- (2) Unless the small beverage manufacturer makes an election under the standard term provided for under subsection (3)(a), a scheme contribution amount for the small beverage manufacturer—
  - (a) is worked out for a period of not less than a quarter in a financial year; and

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- (b) may not be required to be paid more than once in each quarter in a financial year.
- (3) The small beverage manufacturer may, by notice given to the Organisation—
  - (a) elect to—
    - (i) have the scheme contribution amounts for the small beverage manufacturer worked out for periods of a month; and
    - (ii) pay those amounts monthly; and
  - (b) withdraw an election made under the standard term provided for under paragraph (a).
- (4) In this section—

*small beverage manufacturer* see section 99R(2) of the Act.

### **19 Small beverage manufacturer—Act, s 99R**

For section 99R(2) of the Act, definition *small beverage manufacturer*, a manufacturer of a beverage product is a small beverage manufacturer for a financial year if, for the year, the manufacturer manufactures not more than 300,000 of the beverage product.

## **Division 3 Refund amounts for empty containers**

### **20 Bulk quantity—Act, s 99T**

For section 99T(4) of the Act, definition *bulk quantity*, the quantity is at least 1,500.



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## **Division 4      Container collection agreements**

### **21 Other matters for container collection agreement—Act, s 99ZA**

For section 99ZA(1)(i) of the Act, for a container collection agreement between the Organisation and the operator of a container refund point, the other matters are—

- (a) for a breach of the agreement by either party to the agreement—
  - (i) the effect of the breach; and
  - (ii) a process to manage the breach and its effect; and
- (b) a process for either party to the agreement to end the agreement.

### **22 Standard terms for particular container collection agreements—Act, s 99ZA**

- (1) This section prescribes, for section 99ZA(2) of the Act, standard terms for a container collection agreement between—
  - (a) the Organisation; and
  - (b) the operator of 2 or more container refund points under the agreement.
- (2) The container collection agreement must include details of the arrangements for complying with the operator's obligations under the agreement mentioned in section 99ZA(1)(a) of the Act for each of the container refund points.
- (3) If, under the container collection agreement, the operator may subcontract the operation of a container refund point to another person (the *subcontractor*), the operator must, within 5

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business days after the subcontract starts, give the Organisation a notice stating the following—

- (a) the name of the subcontractor;
- (b) when the subcontract starts and ends;
- (c) a summary of the provisions of the subcontract.

## **Division 5      Material recovery facilities**

### **23 Excluded facilities and places—Act, s 99ZE**

(1) For section 99ZE(2) of the Act, the following facilities or places are not material recovery facilities—

- (a) a waste transfer station;
- (b) a waste facility;
- (c) a place where—
  - (i) a beverage product is sold in a container made of glass; and
  - (ii) bottle crushing equipment is used to crush the container when the container is empty.

(2) In this section—

*bottle crushing equipment* means equipment designed to crush containers made of glass.

*waste transfer station* see the *Environmental Protection Regulation 2008*, schedule 2, section 62(5).

### **24 Other matters for material recovery agreement—Act, s 99ZF**

For section 99ZF(2)(h) of the Act, for a material recovery agreement between the Organisation and

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the operator of a material recovery facility, the other matters are—

- (a) for a breach of the agreement by either party to the agreement—
  - (i) the effect of the breach; and
  - (ii) a process to manage the breach and its effect; and
- (b) a process for either party to the agreement to end the agreement.

**25 Standard term for all material recovery agreements—Act, s 99ZF**

- (1) This section prescribes, for section 99ZF(3) of the Act, a standard term for a material recovery agreement between the Organisation and the operator of a material recovery facility.
- (2) For a quantity of containers the operator sorts and prepares for recycling for a quarter in a financial year, the operator—
  - (a) may claim the recovery amount for the quantity only once for the quarter; and
  - (b) must claim the recovery amount for the quantity within 10 business days after the end of the quarter.

**26 Further standard terms for particular material recovery agreements—Act, s 99ZF**

- (1) This section prescribes, for section 99ZF(3) of the Act, further standard terms for a material recovery agreement between the Organisation and the operator of a material recovery facility if the agreement requires a written arrangement (a *recovery sharing arrangement*)—
  - (a) between the operator and a local government from whose local government

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- area the operator receives, at the facility, recyclable waste collected from kerbsides in the local government area; and
- (b) about the proportion of the recovery amount for a quantity of containers under the material recovery agreement the operator will pay to the local government.
- (2) The recovery sharing arrangement must state—
- (a) that the recovery amount for a quantity of containers under the arrangement is to be worked out under the recovery amount protocol; and
  - (b) all of the following about payment of the proportion of the recovery amount for a quantity of containers—
    - (i) the proportion, expressed as a percentage, of the recovery amount;
    - (ii) the frequency of payment;
    - (iii) the date by which each payment must be made.
- (3) The operator must give the Organisation a notice about the recovery sharing arrangement that—
- (a) is signed by the operator and on behalf of the local government; and
  - (b) states the matters mentioned in subsection (2)(b).
- (4) The standard term provided for under subsection (5) applies if the operator—
- (a) claims a recovery amount for a quantity of containers for a quarter in a financial year; and
  - (b) has not given the Organisation a notice about the recovery sharing arrangement that complies with the standard term provided for under subsection (3).

- (5) The Organisation must not pay the operator the recovery amount for the quantity until the Organisation receives the notice from the operator.

**27 Review of recovery amount protocol—Act, s 99ZK**

For section 99ZK(4)(b) of the Act, the other times for reviewing the recovery amount protocol are at least once during each financial year.

**Part 3B Outcomes for Product Responsibility Organisation**

**28 Purpose of part—Act, s 102ZF**

This part prescribes, for section 102ZF(1) of the Act, outcomes relating to the matters mentioned in that section that are to be achieved by the Organisation.

**29 Definition for part**

In this part—

*container recovery rate*, for a period, means the proportion of containers recycled during the period, expressed as a percentage, worked out using the formula—

$$R = \frac{C + M}{S} \times 100$$

where—

*R* means the container recovery rate for the period.

**C** means the number of containers received at a container refund point during the period.

**M** means the number of containers received at a material recovery facility during the period.

**S** means the number of containers in which beverage products were sold in Queensland during the period.

### **30 Container recovery rate—preliminary years**

- (1) The Organisation must, for each preliminary year, decide a percentage it proposes to achieve as the container recovery rate for the year.
- (2) The Organisation must publish on its website the percentage decided under subsection (1) for each preliminary year on or before—
  - (a) for the preliminary year starting on 1 November 2018—1 December 2018; or
  - (b) for the preliminary year starting on 1 July 2019—1 June 2019; or
  - (c) for the preliminary year starting on 1 July 2020—1 June 2020.
- (3) For each preliminary year, the Organisation is to achieve a container recovery rate of at least the percentage published under subsection (2) for the year.
- (4) In this section—

**preliminary year** means—

  - (a) the period starting on 1 November 2018 and ending on 30 June 2019; or
  - (b) the financial year starting on 1 July 2019; or
  - (c) the financial year starting on 1 July 2020.

### **31 Container recovery rates—other years**

The Organisation is to achieve a container recovery rate of at least 85% for—

- (a) the financial year starting on 1 July 2021; and
- (b) each later financial year.

### **32 Container refund points**

The Organisation is to ensure at least 307 container refund points—

- (a) are established by 1 November 2019; and
- (b) are operating for—
  - (i) the remainder of the financial year ending 30 June 2020; and
  - (ii) each later financial year.

## **5 Insertion of new s 42B**

After section 42A—

*insert—*

### **42B Laws—Act, schedule, definition *corresponding law***

The following laws are prescribed for the schedule of the Act, definition *corresponding law*, paragraph (b)—

- (a) *Environment Protection Act 1993* (SA), part 8, division 2;
- (b) *Environment Protection (Beverage Containers and Plastic Bags) Act* (NT), other than part 3;
- (c) *Waste Avoidance and Resource Recovery Act 2001* (NSW), part 5;

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- (d) *Waste Management and Resource Recovery Act 2016* (ACT), part 10A.

**6 Insertion of new pt 7**

After part 6—

*insert—*

**Part 7 Transitional provisions  
for Waste Reduction  
and Recycling  
(Container Refund  
Scheme) Amendment  
Regulation 2018**

**46 References to quarter in financial year—Act, ss 99Q and 99ZF**

A reference in section 18(2), 25(2) or 26(4) to a quarter in a financial year includes a reference to the period starting on 1 November 2018 and ending on 31 December 2018.

**47 Further standard terms for particular material recovery agreements—Act, s 99ZF**

- (1) This section prescribes, for section 99ZF(3) of the Act, further standard terms for a material recovery agreement between the Organisation and the operator of a material recovery facility if—
- (a) the agreement requires the operator to enter into a recovery sharing arrangement with a local government; and
  - (b) the operator claims the recovery amount for a quantity of containers for a quarter in a financial year during the relevant period.
- (2) The material recovery agreement must state



that—

- (a) the claim must be made within 10 business days after the end of the quarter; and
  - (b) the recovery amount for the quantity is to be worked out under the recovery amount protocol; and
  - (c) despite the standard term provided for under section 26(5), the Organisation must pay the operator a recovery amount for the quantity; and
  - (d) the proportion of the recovery amount for the quantity the operator must pay the local government is 50%; and
  - (e) the proportion must be paid within 5 business days after the Organisation pays the operator the recovery amount for the quantity.
- (3) A reference in this section to a quarter in a financial year includes a reference to the period starting on 1 November 2018 and ending on 31 December 2018.
- (4) In this section—
- relevant period* means the period starting on 1 November 2018 and ending on the earlier of the following—
- (a) the day the operator gives the Organisation a notice under the standard term provided for under section 26(3);
  - (b) 30 September 2019.

#### **48 Transition period for displaying refund marking on beverage containers—Act, s 308**

For section 308(3) of the Act, definition *manufacture transition day*, the day is 1 December 2019.

## 7 Amendment of sch 9 (Dictionary)

Schedule 9—

*insert—*

***container recovery rate***, for a period, for part 3B, see section 29.

***quarter***, in a financial year, means—

- (a) 1 July to 30 September in the year; or
- (b) 1 October to 31 December in the year; or
- (c) 1 January to 31 March in the year; or
- (d) 1 April to 30 June in the year.

***recovery sharing arrangement*** see section 26(1).

***scheme contribution amount***, for a manufacturer of a beverage product, means an amount payable by the manufacturer of the beverage product to the Organisation to contribute to the costs mentioned in section 99Q(4)(a)(i) and (ii) of the Act.

ENDNOTES

- 1 Made by the Governor in Council on 25 October 2018.
- 2 Notified on the Queensland legislation website on 26 October 2018.
- 3 The administering agency is the Department of Environment and Science.

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