

# Waste Reduction and Recycling and Other Legislation Amendment Bill 2023

## Explanatory Notes

### Short title

The short title of the Bill is the Waste Reduction and Recycling and Other Legislation Amendment Bill 2023.

### Policy objectives and the reasons for them

The policy objectives of the Bill are to:

- provide a head of power in the definition of waste to prescribe through regulation that a thing is not a waste and move the definition of waste from the *Environmental Protection Act 1994* (Environmental Protection Act) to the *Waste Reduction and Recycling Act 2011* (Waste Act)
- remove the automatic levy exemption for clean earth and subsequent removal of the definition of clean earth
- provide the head of power for a ban on the outdoor release of lighter-than-air balloons
- provide the ability for the chief executive to make a decision about:
  - amending or suspending a Resource Recovery Area declaration and
  - making a payment to a local government
- include the circular economy principle as a principle under the Waste Act
- change the review date for the Waste Strategy from three to five years and
- provide an expiry of 31 December 2025 for the exemption from the ban for an otherwise banned single-use plastic item that is integral to a shelf-ready product.

Consequential amendments are also required to other legislation as a result of moving the definition of waste from the Environmental Protection Act to the Waste Act.

On 11 December 2021 the Queensland Government announced its intention to remove the clean earth levy exemption, to come into effect on 1 July 2023. On 1 July 2022 the government also announced the intention to ban the mass release of lighter-than-air balloons, to commence on 1 September 2023.

Providing a mechanism other than an end of waste code or approval to determine whether or not something is a waste arose out of consultation during the levy efficacy review in June 2022 and as part of the recent End of Waste Code review. Prescribing a thing to not be a waste through regulation provides the ability to consider several factors when deciding whether to recommend the making of the regulation, without placing a reliance solely on whether a thing is suitable for development of end of waste code or approval to become an end of waste resource.

Moving the definition of waste from the Environmental Protection Act to the Waste Act also strengthens the case for consideration of principles including circular economy and product stewardship, as well as protection of the environment, when deciding about prescribing a thing to not be a waste.

While the operator of a waste disposal site for which a resource recovery area has been declared may amend or cancel the area's declaration, the only action available to the chief executive is to revoke a declaration.

The effect of the chief executive revoking a declaration is to sterilise the use of the site for further resource recovery area activities for 12 months. Providing the ability for the chief executive to initiate an amendment to or suspension of the declaration allows an investigation or monitoring of activities on the site to be undertaken without revoking the declaration. Following an investigation the chief executive may still decide that the appropriate course of action is to revoke the declaration.

Changing the review date for the Waste Strategy allows more time for the impact of policies and actions aimed at supporting implementation of the Waste Strategy to achieve the targets to be measured.

Providing a time-limited exemption for items that would otherwise be banned unless they are integral to a shelf-ready product, such as a plastic straw attached to a juice box, is in line with work being undertaken nationally by brand owners to identify more sustainable packaging and ancillary items such as straws, cutlery and bowls. The expiry of 2025 is consistent with the National Packaging Target that 100 per cent of all Australian packaging is reusable, recyclable or compostable by 2025.

## **Achievement of policy objectives**

To achieve the policy objectives the Bill amends the *Waste Reduction and Recycling Act 2011*. The Bill also amends the *Environmental Protection Act 1994* to move the definition of waste to the Waste Act, which strengthens the ability to consider other factors, including circular economy and product stewardship arrangements, as part of the decision to prescribe something to not be a waste.

## **Alternative ways of achieving policy objectives**

As the clean earth levy exemption sits in the *Waste Reduction and Recycling Act 2011*, its removal requires amendment to the Act.

A ban on the outdoor release of lighter-than-air balloons could be achieved through a voluntary industry ban; however, this is unlikely to achieve environmental protection objectives and would be difficult to monitor. It could also cause confusion around the advice that people receive regarding balloon releases.

A legislated ban on balloon releases provides certainty and consistency across the state that it is an offence to release any number of lighter-than-air balloons outdoors, rather than rely on individual organisations to voluntarily commit to no releases, or on individual local governments to introduce local laws. While releasing a balloon is a littering offence, legislating

a release ban simplifies people's understanding and serves to prevent the action from occurring in the first place rather than applying an offence after the action has occurred.

## **Estimated cost for government implementation**

There are not expected to be government implementation costs for the majority of the amendments. The potential for additional costs for the management of clean earth from major infrastructure projects as a result of the removal of the levy exemption has been raised; however, these additional costs can be largely avoided if clean earth is not disposed to landfill. With the removal of the levy exemption the option exists for landfill operators to apply for an operational purposes exemption to include clean earth where that material is used for the good operation and maintenance of the levyable waste disposal site.

Enforcement activities regarding the ban on the release of lighter than air balloons can be minimised by ensuring that education and awareness is undertaken in advance of the ban starting. An engagement strategy will outline the stakeholder groups and communication channels to enable a broad reach for the messaging.

## **Consistency with fundamental legislative principles**

The Bill is generally consistent with fundamental legislative principles.

The offence for non-compliance with the ban on the outdoor release of a lighter-than-air balloon carries a maximum penalty of 50 penalty units. This is consistent with the penalty for non-compliance with the ban on single-use lightweight plastic shopping bags and single-use plastic items. While this is a larger penalty than for a general (30 penalty units) or dangerous (40 penalty units) littering offence, the intent of the balloon release ban is to prevent the release action so that the balloon does not become litter.

## **Consultation**

Following the announcement in December 2021 of the removal of the clean earth levy exemption, consultation has been undertaken with local governments, landfill operators and other government departments.

Options to reduce the potential application of the levy on clean earth that is used in the operation of the landfill and not disposed of to landfill were discussed. Further discussions with impacted sectors will continue to ensure a smooth transition and minimal disruption up to and following the removal of the exemption.

Discussion was also undertaken with environment groups regarding the ban on the outdoor release of lighter-than-air balloons. The results of these discussions led to the change from the July 2022 announcement of a ban on the *mass* release of lighter-than-air balloons to a ban on the release of any number of lighter-than-air balloons outdoors.

To ensure that a consistent message is provided regarding the release ban, further work will be undertaken with environment groups, local governments, balloon suppliers and retailers, and organisations where balloons may have previously been released such as, for example to commemorate an event.

## **Consistency with legislation of other jurisdictions**

The Bill is largely specific to the State of Queensland; however, the removal of the clean earth levy exemption brings Queensland's waste levy framework in line with other jurisdictions with similar arrangements in that an automatic exemption does not apply.

NSW legislation, commencing in 2000, provides for a ban on the release of 20 or more gas-inflated balloons, at or about the same time, with higher penalties where over 100 balloons are released. While the Bill is inconsistent with NSW balloon release legislation, it is consistent with the position of the national body who have a stated aim to eliminate the deliberate release of balloons.

The ban on the outdoor release of lighter-than-air balloons, not to ban the balloons themselves, is also consistent with NSW legislation.

The provision in this Bill of an expiry to the exemption for an otherwise banned single-use plastic item is consistent with legislation introduced in Victoria. This legislation provides that items such as a straw attached to a juice box or a plate in a frozen meal are banned from 1 January 2026.

## Notes on provisions

### Part 1 Preliminary

Clause 1 (**Short title**) states that the short title may be cited as the Waste Reduction and Recycling and Other Legislation Amendment Bill 2023.

Clause 2 (**Commencement**) states that Part 3, division 3 and schedule 1, part 2 commence on 1 July 2023 and Part 3, division 4 and schedule 1, part 3 commence on 1 September 2023.

### Part 2 Amendment to the Environmental Protection Act 1994

Clause 3 (**Act amended**) states that this part amends the *Environmental Protection Act 1994*.

Clause 4 (**Omission of s13 (Waste)**) states that section 13 (definition of *waste*) is omitted.

Clause 5 (**Amendment of schedule 4 (Dictionary)**) states that the reference to section 13 is omitted and replaced with the *Waste Reduction and Recycling Act 2011*, section 8AA.

### Part 3 Amendment of Waste Reduction and Recycling Act 2011

#### Division 1 Preliminary

Clause 6 (**Act amended**) states that this part amends the *Waste Reduction and Recycling Act 2011*.

#### Division 2 Amendments commencing on assent

Clause 7 (**Amendment of s 3 (Objects of Act)**) states that section 3 is amended to insert reference to the circular economy, by providing that the objects are to promote and facilitate Queensland's transition to a circular economy and to promote activities across government, business, industry and the community that extend the lifecycle of product and materials.

Subsection (2) renumbers sections 3(b) to (g).

Clause 8 (**Amendment of s 4 (Achieving Act's objectives)**) states that the circular economy principle is included before section 4(2)(b)(i).

Subsection (2) renumbers as section 4(2)(b)(i) to (v).

Clause 9 (**Insertion of new s 8AA**) states that after s 8 the meaning of waste is inserted.

Subsection (1) states that waste includes anything that is –

- (a) left over, or an unwanted by-product, from an industrial, commercial or domestic or other activity; or
- (b) surplus to the industrial, commercial, domestic or other activity generating the waste

Subsection (2) states that waste does not include –

- (a) a resource; or  
*Note – see chapter 8*
- (b) a thing prescribed by regulation not to be a waste

Subsection (3) states that a waste can be a gas, liquid, solid or energy, or a combination of any of them.

Subsection (4) states that a thing can be a waste whether or not it is of value.

Subsection (5) states that despite subsection (2) a thing that is a resource, or is prescribed by regulation not to be a waste, becomes waste if the thing –

- (a) is disposed of at a waste disposal site; or
- (b) is deposited at a place in a way that –
  - (i) would, if the thing were waste, contravene either the general littering or illegal dumping provisions; or

Subsection (6) states that the Minister may recommend to the Governor in Council the making of a regulation under subsection (2)(b), prescribing a thing not to be a waste (a **proposed change**), only after –

- (a) carrying out consultation with the public about the proposed change; and
- (b) considering all of the following –
  - (i) the results of the public consultation about the proposed change;
  - (ii) whether making the proposed change is likely to achieve the objects of this Act;
  - (iii) whether making the proposed change is likely to achieve the objects of the *Environmental Protection Act 1994*;
  - (iv) whether there are other more effective measures that achieve the intended outcome of the proposed change.

Subsection (7) states that in this section for the meaning of: **end of waste approval** see section 159(2); **end of waste code** see section 159(1) and **resource** see section 155(2)

Clause 10 (**Insertion of new s 9A**) states that, after section 9, the meaning of circular economy principle is included in the Act.

## **9A Meaning of circular economy principle and circular economy**

Subsection (1) states that the circular economy is the principle that, to promote waste avoidance and minimise the impact of waste on the environment and human health, all products and materials should be kept in the economy for as long as they have value or remain useful.

Subsection (2) states that the circular economy principle recognises that –

- (a) waste generation can be avoided by –
  - (i) manufacturers designing, to the greatest extent possible, their products and materials to be circular products and materials; and
  - (ii) business and industry adopting new business models supporting and incentivising the use of circular products and materials; and

- (iii) remanufacturing hubs, co-locating at, and collaborating with, resource recovery facilities to prevent circular products and materials from being disposed of to landfill; and
- (b) unavoidable waste should be managed in accordance with the precepts of the waste and resource management hierarchy mentioned in section 9(c) to (g); and
- (c) ecosystems are regenerated by reducing the demand for virgin materials; and
- (d) the adoption of circular products and materials should be incentivised in ways that increase the value of the products and materials.

Subsection (3) states that a circular economy is an economy in which all products are kept for as long as they have value or remain useful

Subsection (4) states for this section:

***circular economy products and materials*** means products and materials that can be reused, repaired, refurbished, repurposed or remanufactured.

***remanufacturing facility*** means a facility operated to carry out an activity relating to reuse, repair, refurbishment, repurposing or remanufacturing of products and materials.

***resource recovery facilities*** means a facility operated to carry out an activity relating to the receiving and sorting, dismantling or baling of waste.

Clause 11 (**Amendment of s 15 (What may be included in State’s waste management strategy)**) states that, for section 15(2), without limiting subsection (1), the strategy may provide for circular economy.

Clause 12 (**Amendment of s 20 (Review of State’s waste management strategy)**) states that the chief executive must conduct a review of the waste strategy within five years of publishing each final report.

The previous timeframe of three years did not provide sufficient time to measure real achievement against the targets in the Strategy, with five years providing improved ability to undertake trend analysis and assess the impacts from implementation of policies and programs.

Clause 13 (**Amendment of s 72U (Amendment of resource recovery area)**) states that the heading is amended to include wording ‘by operator’ to distinguish between the different amendment arrangements.

Clause 14 (**Amendment of s 72V (Cancellation of resource recovery area)**) states that the heading is amended to include wording ‘by operator’ to distinguish between an operator-cancelled resource recovery area and one that is revoked by the chief executive.

Clause 15 (**Insertion of new s 72VA**) states that a new section after section 72V is inserted.

**72VA            Amendment or suspension of resource recovery area by chief executive**

Subsection (1) states that the chief executive may amend or suspend the declaration of a resource recovery area if the chief executive is satisfied that –

- (a) one or more of the matters mentioned in section 72R(a) to (e) do not or no longer apply in relation to the resource recovery area; or
- (b) conducting a recycling activity in the resource recovery area would prejudice the investigation of the commission, or possible commission, of an offence against a provision of division 2.

Subsection (2) states that if the chief executive proposes to amend or suspend a declaration of a resource recovery area (the *proposed action*), the chief executive must first give a notice (*show cause notice*) about the proposed action to the operator of the waste disposal site for which the resource recovery area has been declared.

Subsection (3) states the things to be included in the show cause notice, including that: the notice must state the proposed action; if the proposed action is an amendment, what the proposed amendment is; if the proposed action is suspension, the period of the suspension; the reasons for the proposed action; and advice to the operator that they may, within a stated period (the *show cause period*) take stated actions, if any, to avoid the proposed action being taken, or make a written submission to the chief executive about why the proposed action should not be taken.

Subsection (4) states that the show cause period must not end earlier than 21 days from when the operator is given the show cause notice.

Subsection (5) states that the chief executive must decide within 20 business days after the end of the show cause period whether to take the proposed action. The chief executive must have regard to –

- (a) any written submissions that have been made by the operator during the show cause period; and
- (b) the extent to which the operator has taken any actions mentioned in subsection (3)(e)(i).

Subsection (6) states that the chief executive may decide to either make the stated amendment or, where the proposed action was suspension, to suspend the declaration for no longer than the period stated in the show cause notice.

Clause (7) states that within 10 business days of making the decision the chief executive must give the operator either an information notice about the decision (where the decision is to take the proposed action) or a notice about the decision (where the proposed action is not taken).

Clause (8) states that the decision to take the proposed action takes effect on the later of the day the information notice is given to the operator or, where a day is stated in the information notice, the stated day.

Clause (9) states that where a resource recovery declaration is suspended under this section, for the period of the suspension the area becomes part of the levyable waste disposal site and all waste, other than exempt waste, that is delivered to the area during the period of the suspension is, for the purposes of the waste levy, taken to be waste delivered to the levyable waste disposal site.



It should be noted that waste delivered to a resource recovery area before the show cause notice is issued or during the decision period is not subject to the levy should the decision to suspend the declaration be made. This is to enable the continued operation of the declared area, without penalty to the operator, should a decision not to take the proposed action to suspend the declaration be made.

During the period of the suspension of the declaration any levyable waste that is delivered to the suspended area for the duration of the suspension will incur the levy liability as if it had been delivered to the levyable waste disposal site itself.

Clause 16 (**Replacement of ch 3, pt 7, hdg**) amends the heading for this part.

## **Part 7      Payments to local governments**

Clause 17 (**Replacement of s 73D (Annual payment to local governments)**)

### **73D    Definitions for this part**

Terms defined in this part are:

**additional payment** - meaning an amount paid to a local government under section 73DB(3)(a)

**annual payment** – meaning an amount that is paid to a local government under section 73DA(2)

**rate notice** – has the meaning given in the Local Government Regulation 2012, schedule 8 for local governments except the City of Brisbane; and for the City of Brisbane the meaning under the City of Brisbane Regulation 2012, schedule 4

### **73DA Annual payments to local governments**

Subsection (1) states that a regulation may prescribe an amount for a financial year that is paid by the chief executive to a local government affected by the waste levy.

Subsection (2) states that the chief executive must pay the amount to the local government.

### **73DB Additional payments to local governments**

Subsection (1) states that a local government may request payment of an additional amount for the financial year to further mitigate direct effects of the waste levy on households in the local government's local government area.

Subsection (2) states that the request must be made in writing and include any information prescribed in regulation.

Subsection (3) states that the chief executive must consider the request and may decide to either pay the additional amount to the local government if the chief executive considers this action appropriate or refuse the request.

### **73DC Use of the annual payments and additional payments**

Subsection (1) states that the local government who receives the annual payment or any additional payment must use these payments to mitigate any direct effects of the waste levy on households in the local government's local government area.

Subsection (2) states that subsection (3) applies if the chief executive believes that the local government has not used an annual payment, or an additional payment, as required by subsection (1).

Subsection (3) states that the chief executive must not make any further annual payments or additional payments to the local government until satisfied that the local government has used the payment as required under subsection (1).

If a local government who has received an annual payment makes a request to the chief executive for an additional payment, the chief executive must consider whether the local government has used the annual payment received in the manner described in subsection (1) before making a decision to make the additional payment.

### **73DD Rates notices to include statement about annual payments and additional payments**

Subsection (1) states that this section applies in relation to the first rate notice that is issued by a local government after receiving an annual payment, or any additional payment.

This subsection makes it clear that a local government does not have to provide information about the annual payment or the additional payment on every rate notice that may be issued for a particular financial year. For example, where a local government issues a rate notice quarterly in a financial year, the local government complies with this subsection by providing information about the payment on the first rate notice issued in that financial year.

However, nothing in this subsection precludes a local government from providing information about a payment on a subsequent rate notice issued for that financial year.

Subsection (2) states that a rate notice must state that amount of the payment given to the local government and the purpose for which the payment has been, or will be, used.

Subsection (3) states that subsection (4) applies if the chief executive believes that the local government has given an entity a rate notice that does not comply with subsection (1).

Subsection (4) states that the chief executive may refuse make any further annual payments or additional payments to the local government until satisfied that the local government has informed the entity of the matters mentioned in subsection (2).

### **73DE Local government must not distribute misinformation**

Subsection (1) states that this section applies if the chief executive believes that a local government has distributed misinformation about an annual payment or an additional payment after they have received the payment.

Subsection (2) states that the chief executive may refuse to make any further annual payments or additional payments to the local government until satisfied that the local government has informed the intended recipients of the information of how the misinformation is false or misleading.

Subsection (3) states that a local government is taken to have distributed misinformation under this subsection if the local government has included the misinformation in a rate notice or other document issued by the local government or has published the misinformation on the local government's website or has included the misinformation in an advertisement made by or on behalf of the local government.

Subsection (4) states that for this section *misinformation*, regarding an annual payment or additional payment, means a false or misleading statement about the effect of the waste levy in a local government; or the purpose of the payment; or the amount of the payment.

Clause 18 (**Insertion of new ch 3, pt 8, hdg**) inserts a new Part after section 73DE

### **Part 8 Review of efficacy of waste levy**

A new part is inserted to differentiate between the provisions dealing with payments to local governments and the chief executive's requirement to review the efficacy of the waste levy.

Clause 19 (**Amendment of s 99GC (Meaning of banned single-use plastic item)**) amends section 99GC to differentiate between ways that a single-use plastic item may not be a banned single-use plastic item

Subsection (1) omits the current section 99GC(2) and replaces it with:

(2) states that a single-use plastic item that is prescribed by regulation not to be a banned item is not a banned item.

(2A) states that a single-use plastic item that is an integral part of a shelf-ready product is also not a banned item.

Subsection (2) inserts (3A) providing that this subsection and subsection (2A) expire on 31 December 2025.

This amendment places a time limit of the exemption provided for otherwise banned items (eg. a plastic straw) that are integral to a shelf-ready product. The expiry of this exemption in 2025 aligns with the National Packaging Target that 100 per cent of Australian packaging is reusable, recyclable, or compostable by 2025, along with the work under these targets to phase out unnecessary and problematic plastic packaging.

Clause 20 (Insertion of new ch 16, pt 5) inserts transitional provisions

## **Part 5 Transitional provisions for Waste Reduction and Recycling and Other Legislation Amendment Act 2011**

### **330 Application of part**

This part applies if an annual payment was made to a local government under former section 73D(1) before the commencement

### **331 Definitions for part**

For this part –

*former*, for a provision of this Act, means the provision as in force from time to time before the commencement

*new*, for a provision of this Act, means the provision as in force from the commencement.

### **332 Application of new s 73DC in relation to annual payments made before commencement**

Subsection (1) states that this section applies if, immediately before the commencement, the local government had not used all of the annual payment as required under former section 73D(2).

Subsection (2) states that new section 73DC applies in relation to the unused amount of the annual payment as if it were an amount paid to the local government under new section 73DA(2).

Subsection (1) states that this section applies in relation to an annual payment that was made, prior to commencement, to a local government under former section 73D(1).

### **333 Application of new s 73DD in relation to annual payments made before commencement**

Subsection (1) states that new section 73DD applies in relation to an annual payment as if it were an amount paid to the local government under new section 73DA(2) and is taken to always have applied in relation to the first rate notice issued to an entity by the local government after receiving the annual payment.

Subsection (2) states that the local government is taken to have complied with new section 73DA(2) in relation to the first rate notice issued to an entity after receiving the annual payment if, before the commencement:

- (a) any rate notice issued to the entity by the local government, after receiving the payment, included a statement of the matters mentioned in former section 73D(4) in relation to the payment or

(b) the local government informed the entity of the amount paid and the purpose of the payment as mentioned in former section 73D(5).

**334 Application of new s 73DE if misinformation distributed in relation to annual payments made before commencement**

Subsection (1) states that new section 73DE applies in relation to the annual payment as if it were an amount paid to the local government under new section 73DA(2) and whether the misinformation is believed to have been distributed before or after the commencement.

Subsection (2) states that a statement made before the commencement in relation to the annual payment is misinformation distributed in relation to the payment only if the statement would have been misinformation within the meaning of the former section 73D.

Subsection (2) states that new chapter 3, part 7 applies in relation to the annual payment as if the payment were paid to the local government under new section 73DA(2).

Subsection (3) states that the local government is taken to have complied with new section 73DD(2) in relation to the annual payment if a rate notice issued to an entity by the local government before the commencement, or the first rate notice issued to an entity by the local government after the commencement, states –

- (a) the amount of the payment; and
- (b) the purpose for which the payment has been, or will be, used.

Subsection (4) states that for this section –

This transitional provision allows for the new misrepresentation provision under new s 73DE to apply in relation to the existing annual payments.

It also means that, unless a local government has disclosed the amount of the payment, and its purpose, in a rate notice issued before the commencement, or the first rate notice issued after the commencement, the chief executive may refuse to make further annual payments or additional payments to the local government.

Clause 21 (**Amendment of schedule (Dictionary)**) amends the Dictionary.

Subsection (1) inserts the meanings for:

*circular economy*, see section 9A(2)

*circular economy principle*, see section 9A(1)

*rate notice*, for chapter 3, part 7, see section 73D

*relevant payment*, for chapter- 3, part 7, see section 73D

Subsection (2) omits the definition of *waste* from the Environmental Protection Act, section 13 and inserts section 8AA.

## Division 3 Amendments commencing on 1 July 2023

Clause 22 (**Amendment of s 26 (Definitions for chapter)**) amends section 26.

Subsection (1) states that paragraph (e) in relation to clean earth is removed.

Subsection (2) provides for paragraphs (f) and (g) under section 26 to be renumbered as (e) and (f).

Clause 23 (**Amendment of schedule (Dictionary)**) omits the definition of clean earth.

## Division 4 Amendments commencing on 1 September 2023

Clause 24 (Insertion of new ch 4, pt 3AB) inserts a new section for Chapter 4c(**Management of priority products and priority waste**).

### Part 3AB Lighter-than-air balloons

#### 99GJ Release of lighter-than-air balloons

Subsection (1) states that a person must not release, or cause the release of, a lighter-than-air balloon unless the release happens inside a building or structure and the balloon does not escape from the building or structure to the environment or the release is for scientific research, including for example meteorology, conducted by an institution administered by the Commonwealth or a State or is an entity involved in scientific research.

The maximum penalty for an offence under this subsection is 50 penalty units.

Subsection (2) states that for subsection (1) a person releases a lighter-than-air balloon if the person allows the balloon to float in the atmosphere while the balloon is not attached, directly or indirectly, to a weighted thing. This includes where a person lets go of the string or the balloon itself and allows it to float in the atmosphere.

Subsection (3) states that without limiting subsection (1), a person is taken to have caused the release of a lighter-than-air balloon if –

- (a) the person attaches, whether directly or indirectly, the balloon to the earth's surface or a relevant weight; and
- (b) the balloon detaches from the earth's surface or the weighted thing without the assistance of another person; and
- (c) the person did not take reasonable steps to ensure the balloon could not detach from the earth's surface or the relevant weight.

Subsection (4) states that this section does not limit section 103 (**General littering provision**) that states that a person must not litter at a place.

Subsection (5) provides meanings for terms used in this section –

**lighter-than-air balloon** means an inflated balloon or a lantern that derives its support in the atmosphere from buoyancy but does not include an inflated balloon or a lantern

that carries one or more persons (for example a hot air balloon) or a blimp, or an inflated balloon or a lantern that is a remotely piloted aircraft.

**relevant weight**, in relation to a lighter-than-air balloon, means a person or a thing that is too heavy for the balloon to support in the atmosphere, including for example, a vehicle or a structure.

**remotely piloted aircraft** means an aircraft that cannot carry a person and is remotely piloted or otherwise controlled or is able to be programmed to independently fly a particular route.

Regarding a remotely piloted aircraft while the release of an aircraft under this meaning does not create an offence for this part, if the remotely piloted aircraft is lost, abandoned or otherwise discarded in a way that may constitute littering this may be an offence under s103.

For this section it does not matter whether the lighter-than-air balloon is intended to be used once (single-use) or can be refilled (refillable) with a lighter-than-air gas such as helium. In the event that a refillable balloon is released into the atmosphere where it is not or is unable to be retrieved from the environment it has the same effect as a single-use balloon.

## **Part 4 Other amendments**

Clause 25 (**Legislation amended**) states that Schedule 1 amends the legislation that it mentions.

### **Schedule 1 Other amendments**

#### **Part 1 Amendments commencing on assent**

##### **Biosecurity Act 2014**

For Schedule 4, definition **waste**, omit the *Environmental Protection Act 1994*, section 13 and replace with the *Waste Reduction and Recycling Act 2011*, section 7A

##### **Rural and Regional Adjustment Regulation 2011**

For schedule 14, section 2, definition **waste**, omit the *Environmental Protection Act 1994*, section 13 and replace with the *Waste Reduction and Recycling Act 2011*, section 8AA

##### **Waste Reduction and Recycling Regulation 2011**

For section 11L, reference to section 73D(1) is omitted and replaced with section 73DA(1)

#### **Part 2 Amendments commencing on 1 July 2023**

##### **Waste Reduction and Recycling Regulation 2011**

For section 8A(1), paragraph (g)(i) is renumbered as paragraph (f)(i).

For section 9, clean earth is omitted from the heading.

This heading now reads **Guideline prescribed for definitions exempt waste**

For section 9(1), omits paragraph (b) in relation to the schedule of the Act concerning the definition of clean earth, paragraph (b)(ii), retaining the definition of exempt waste, paragraph (d).