

THIS PUBLIC BILL has this day been read a Third time and passed

*The Clerk of the Parliament.*

*Legislative Assembly Chamber,  
Brisbane, May 2023*



Queensland

**No.  
A BILL for**

**An Act to amend the Environmental Protection Act 1994, the Waste Reduction and Recycling Act 2011 and the legislation mentioned in schedule 1 for particular purposes**





Queensland

# Waste Reduction and Recycling and Other Legislation Amendment Bill 2023

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**2023**

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## **A Bill**

for

**An Act to amend the *Environmental Protection Act 1994*, the *Waste Reduction and Recycling Act 2011* and the legislation mentioned in schedule 1 for particular purposes**

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[s 1]

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## 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 2023*.

#### 2 Commencement

- (1) The following provisions commence on 1 July 2023—
  - (a) part 3, division 3;
  - (b) schedule 1, part 2.
- (2) Part 3, division 4 commences on 1 September 2023.

### Part 2 Amendment of Environmental Protection Act 1994

#### 3 Act amended

This part amends the *Environmental Protection Act 1994*.

#### 4 Omission of s 13 (Waste)

Section 13—  
*omit.*

#### 5 Amendment of sch 4 (Dictionary)

Schedule 4, definition *waste*, ‘section 13’—  
*omit, insert—*



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the *Waste Reduction and Recycling Act 2011*,  
section 8AA

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

### **Division 1**                **Preliminary**

#### **6**        **Act amended**

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

### **Division 2**                **Amendments commencing on assent**

#### **7**        **Amendment of s 3 (Objects of Act)**

(1) Section 3, after paragraph (a)—

*insert—*

(aa) to promote and facilitate Queensland's transition to a circular economy;

(ab) to promote activities across government, business, industry and the community that extend the life cycle of products and materials;

(2) Section 3(aa) to (e)—

*renumber* as section 3(b) to (g).

#### **8**        **Amendment of s 4 (Achieving Act's objects)**

(1) Section 4(2)(b), before subparagraph (i)—

[s 9]

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*insert—*

(iaa) the circular economy principle;

(2) Section 4(2)(b)(iaa) to (iv)—

*renumber* as section 4(2)(b)(i) to (v).

## 9 Insertion of new s 8AA

After section 8—

*insert—*

### **8AA Meaning of *waste***

(1) ***Waste*** includes any thing that—

(a) is left over, or is an unwanted by-product, from an industrial, commercial, domestic or other activity; or

*Example—*

Abandoned or discarded material from an activity is left over, or is an unwanted by-product, from the activity.

(b) is surplus to the industrial, commercial, domestic or other activity generating the waste.

(2) However, ***waste*** does not include—

(a) a resource; or

*Note—*

See chapter 8.

(b) a thing prescribed by regulation not to be waste.

(3) ***Waste*** can be a gas, liquid, solid or energy, or a combination of any of them.

(4) A thing can be ***waste*** whether or not it is of value.

(5) Despite subsection (2), a thing that is a resource, or is prescribed by regulation not to be 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 the general littering provision or the illegal dumping of waste provision; or
    - (ii) if the thing is a resource—is not permitted under an end of waste code or end of waste approval.
- (6) The Minister may recommend to the Governor in Council the making of a regulation under subsection (2)(b) (a ***proposed change***) only after—
- (a) carrying out consultation with the public about the proposed change; and
  - (b) considering the following matters—
    - (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 object of the Environmental Protection Act;
    - (iv) whether there are other measures that would be more effective in achieving the intended outcome of the proposed change.
- (7) In this section—
- end of waste approval*** see section 159(2).
- end of waste code*** see section 159(1).
- resource*** see section 155(2).

[s 10]

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## 10 Insertion of new s 9A

After section 9—

*insert—*

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

- (1) The *circular economy principle* 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.
- (2) The circular economy principle recognises that—
  - (a) waste generation can be avoided by—
    - (i) manufacturers designing, to the greatest extent practicable, their products and materials to be circular products and materials; and
    - (ii) business and industry adopting new business models that support and incentivise the use of circular products and materials; and
    - (iii) remanufacturing facilities being co-located at, and collaborating with, resource recovery facilities to prevent circular products and materials 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

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increase the value of the products and materials.

(3) A *circular economy* is an economy in which all products and materials are kept for as long as they have value or remain useful.

(4) In this section—

*circular 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 the reuse, repair, refurbishment, repurposing or remanufacturing of products or materials.

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

## 11 **Amendment of s 15 (What may be included in State's waste management strategy)**

Section 15(2)—

*omit, insert—*

- (2) Without limiting subsection (1), the strategy may provide for the following matters—
- (a) a circular economy;
  - (b) waste avoidance and reduction;
  - (c) product design;
  - (d) consumption;
  - (e) reuse or repair of products and materials;
  - (f) resource efficiency;
  - (g) product stewardship;
  - (h) resource recovery;

[s 12]

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- (i) recycling, including, for example, standards, criteria and specifications for recycled materials and products containing recycled materials;
- (j) priority products or priority waste;
- (k) strategic waste management and resource recovery planning;
- (l) data collection and reporting.

**12 Amendment of s 20 (Review of State's waste management strategy)**

Section 20(1)—

*omit, insert—*

- (1) The chief executive must, within 5 years after publishing a final review report under section 22(1), conduct a review of the State's waste management strategy.

**13 Amendment of s 72U (Amendment of resource recovery area)**

Section 72U, heading, after 'area'—

*insert—*

**by operator**

**14 Amendment of s 72V (Cancellation of resource recovery area)**

Section 72V, heading, after 'area'—

*insert—*

**by operator**

---

**15 Insertion of new s 72VA**

After section 72V—

*insert—*

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

- (1) The chief executive may amend or suspend the declaration of a resource recovery area by the operator of a waste disposal site if the chief executive is satisfied that—
  - (a) 1 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.
- (2) If the chief executive proposes to amend or suspend the declaration of the resource recovery area (the ***proposed action***), the chief executive must first give the operator a notice (a ***show cause notice***) about the proposed action.
- (3) The show cause notice must state each of the following matters—
  - (a) the proposed action;
  - (b) if the proposed action is an amendment—the proposed amendment;
  - (c) if the proposed action is suspension—the period of the proposed suspension;
  - (d) the reasons for the proposed action;
  - (e) that the operator may, within a stated period (the ***show cause period***)—

[s 15]

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- (i) make a written submission to the chief executive about why the proposed action should not be taken; or
  - (ii) take stated actions, if any, to avoid the taking of the proposed action.
- (4) The show cause period must not end earlier than 21 days after the operator is given the show cause notice.
- (5) Within 20 business days after the end of the show cause period, the chief executive must decide whether or not to take the proposed action having regard to—
  - (a) any written submissions 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)(ii).
- (6) The chief executive may decide to—
  - (a) if the proposed action was to make a stated amendment—make the stated amendment; or
  - (b) if the proposed action was to suspend the declaration for a stated period—suspend the declaration for no longer than the stated period.
- (7) The chief executive must, within 10 business days after making the decision, give the operator—
  - (a) if the chief executive decides to take the proposed action—an information notice for the decision; or
  - (b) if the chief executive decides not to take the proposed action—a notice about the decision.
- (8) A decision to take the proposed action takes effect



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on the later of the following days—

- (a) the day the information notice is given to the operator;
  - (b) if the information notice states a day on which the proposed action takes effect—the stated day.
- (9) If the declaration of the resource recovery area is suspended under this section, then, for the period of the suspension—
- (a) the area is taken to be part of the levyable waste disposal site; and
  - (b) all waste, other than exempt waste, delivered to the area during the period is, for the purposes of the waste levy, taken to be waste delivered to the levyable waste disposal site.

*Note—*

If levyable waste is delivered to a levyable waste disposal site, the waste levy on the waste may be payable under section 36.

**16 Replacement of ch 3, pt 7, hdg (Miscellaneous)**

Chapter 3, part 7, heading—

*omit, insert—*

**Part 7                      Payments to local governments**

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

Section 73D—

*omit, insert—*

**73D Definitions for part**

In this part—

[s 17]

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***rate notice*** means a notice issued under the *City of Brisbane Act 2010*, or the *Local Government Act 2009*, to levy rates and charges.

***relevant payment*** means an amount paid to a local government under—

- (a) section 73DA(2); or
- (b) section 73DB(3)(a).

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

- (1) A regulation may prescribe an amount, for a financial year, that is to be paid under this section to a local government affected by the waste levy.
- (2) The chief executive must pay the amount to the local government.

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

- (1) The local government may request payment of an additional amount for the financial year to further mitigate the direct effects of the waste levy on households in the local government's local government area.
- (2) The request must—
  - (a) be made in writing to the chief executive; and
  - (b) include the information prescribed by regulation.
- (3) The chief executive must consider the request and must decide to—
  - (a) pay to the local government an additional amount the chief executive considers appropriate; or
  - (b) refuse the request.

### **73DC Use of relevant payments**

- (1) The local government must use a relevant payment to mitigate the direct effects of the waste levy on households in the local government's local government area.
- (2) Subsection (3) applies if the chief executive believes the local government has not used a relevant payment as required under subsection (1).
- (3) Until the chief executive is satisfied the local government has used the relevant payment as required under subsection (1), the chief executive must not make any further relevant payments to the local government.

### **73DD Rate notice to include statement about relevant payments**

- (1) The first rate notice issued to an entity by the local government after receiving a relevant payment must state—
  - (a) the amount of the payment; and
  - (b) the purpose for which the payment has been, or will be, used.
- (2) Subsection (3) applies if the chief executive believes the local government has not complied with subsection (1) in relation to an entity.
- (3) Until the chief executive is satisfied the local government has informed the entity of the matters mentioned in subsection (1), the chief executive may refuse to make any further relevant payments to the local government.

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

- (1) This section applies if the chief executive believes

[s 18]

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the local government has, after receiving a relevant payment, distributed misinformation in relation to the payment.

- (2) Until the chief executive is satisfied the local government has informed the intended recipients of the misinformation of how the misinformation is false or misleading, the chief executive may refuse to make any further relevant payments to the local government.
- (3) A local government is taken to distribute misinformation if the local government—
  - (a) includes the misinformation in a rate notice, or other document, issued by the local government; or
  - (b) publishes the misinformation on the local government’s website; or
  - (c) includes the misinformation in an advertisement made by, or on behalf of, the local government.
- (4) In this section—

***misinformation***, in relation to a relevant payment received by a local government, means a false or misleading statement about—

  - (a) the effect of the waste levy on the local government or households in the local government’s local government area; or
  - (b) the amount of the payment; or
  - (c) the purpose of the payment.

## 18 Insertion of new ch 3, pt 8, hdg

Before section 73E—

*insert—*

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## Part 8                      Review of efficacy of waste levy

### 19      **Amendment of s 99GC (Meaning of *banned single-use plastic item*)**

(1) Section 99GC(2)—

*omit, insert—*

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

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

*Examples—*

- a straw attached to a juice box
- a fork included in a pre-packed salad
- a spoon attached to a yoghurt container
- a plate forming part of a frozen meal

(2) Section 99GC(3), '(2)(b)'—

*omit, insert—*

(2)

(3) Section 99GC—

*insert—*

(3A) The following provisions expire on 31 December 2025—

- (a) this subsection;
- (b) subsection (2A);
- (c) subsection (4), definition *shelf-ready product*.

[s 19A]

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**19A Amendment of s 126 (Review of plan)**

Section 126, ‘3 years’—

*omit, insert—*

5 years

**19B Amendment of s 136 (Review of plan)**

Section 136, ‘3 years’—

*omit, insert—*

5 years

**20 Insertion of new ch 16, pt 5**

Chapter 16—

*insert—*

**Part 5**

**Transitional provisions  
for Waste Reduction  
and Recycling and  
Other Legislation  
Amendment Act 2023**

**330 Application of part**

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

**331 Definitions for part**

In 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**

- (1) 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).
- (2) 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).

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

- (1) New section 73DD applies in relation to the annual payment as if it were an amount paid to the local government under new section 73DA(2).
- (2) However, the local government is taken to have complied with new section 73DD(1) in relation to an entity if, before the commencement—
  - (a) 1 or more rate notices issued to the entity by the local government, after receiving the annual 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 annual payment as mentioned in former section 73D(5).

[s 21]

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

- (1) New section 73DE applies in relation to the annual payment—
  - (a) as if the payment were an amount paid to the local government under new section 73DA(2); and
  - (b) whether the misinformation is believed to have been distributed before or after the commencement.
- (2) However, 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 former section 73D.

## **21 Amendment of schedule (Dictionary)**

- (1) Schedule—

*insert—*

*circular economy* see section 9A(3).

*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.

- (2) Schedule, definition *waste*, ‘the Environmental Protection Act, section 13’—

*omit, insert—*

section 8AA



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**Division 3**                      **Amendments commencing on 1  
July 2023**

**22**            **Amendment of s 26 (Definitions for chapter)**

- (1) Section 26, definition *exempt waste*, paragraph (e)—  
*omit.*
- (2) Section 26, definition *exempt waste*, paragraphs (f) and (g)—  
*renumber* as paragraphs (e) and (f).

**23**            **Amendment of schedule (Dictionary)**

Schedule, definition *clean earth*—  
*omit.*

**Division 4**                      **Amendment commencing on 1  
September 2023**

**24**            **Insertion of new ch 4, pt 3AB**

Chapter 4—  
*insert—*

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

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

- (1) A person must not release, or cause the release of, a lighter-than-air balloon unless—
  - (a) the release happens inside a building or another structure and the balloon does not escape from the building or other structure into the environment; or

[s 24]

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(b) the release is for scientific research, including, for example, meteorology.

Maximum penalty—50 penalty units.

(2) 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 the earth's surface or a relevant weight.

(3) Without limiting subsection (1), a person is taken to have caused the release of a lighter-than-air balloon if—

(a) the person attaches the balloon, whether directly or indirectly, to the earth's surface or a relevant weight; and

(b) the balloon detaches from the earth's surface, or the relevant weight, 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.

(4) This section does not limit section 103.

(5) In this section—

***lighter-than-air balloon***—

(a) means an inflated balloon, or a lantern, that derives support in the atmosphere from buoyancy; but

(b) does not include—

(i) an inflated balloon, or a lantern, that carries 1 or more persons, including, for example, a hot air balloon or blimp; or

(ii) 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.

*Examples of a thing—*

a vehicle or a structure

***remotely-piloted aircraft*** means an aircraft that—

- (a) can not carry a person; and
- (b) either—
  - (i) is remotely piloted or otherwise controlled; or
  - (ii) is able to be programmed to independently fly a particular route.

## **Part 4                      Other amendments**

### **25            Legislation amended**

Schedule 1 amends the legislation it mentions.

## **Schedule 1      Other amendments**

section 25

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

#### **Biosecurity Act 2014**

**1            Schedule 4, definition *waste*, ‘*Environmental Protection Act 1994*, section 13’—**

*omit, insert—*

*Waste Reduction and Recycling Act 2011*, section  
8AA

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

**1            Schedule 14, section 2, definition *waste*, ‘*Environmental Protection Act 1994*, section 13’—**

*omit, insert—*

*Waste Reduction and Recycling Act 2011*, section  
8AA

## Waste Reduction and Recycling Regulation 2011

**1 Section 11L, heading, ‘s 73D’—**

*omit, insert—*

**s 73DA**

**2 Section 11L, ‘section 73D(1)’—**

*omit, insert—*

**section 73DA(1)**

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

## Waste Reduction and Recycling Regulation 2011

**1 Section 8A(1), ‘paragraph (g)(i)’—**

*omit, insert—*

**paragraph (f)(i)**

**2 Section 9, heading, from ‘definitions’—**

*omit, insert—*

**definition *exempt waste***

**3 Section 9(1), from ‘for—’—**

*omit, insert—*

**for section 26 of the Act, definition *exempt waste*,  
paragraph (d).**

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