



Waste Reduction and Recycling Act 2011

Waste Reduction and Recycling Regulation 2011

Current as at 1 November 2018

© State of Queensland 2018



This work is licensed under a Creative Commons Attribution 4.0 International License.



Queensland

Waste Reduction and Recycling Regulation 2011

Contents

		Page
Part 1	Preliminary	
1	Short title	7
2	Commencement	7
3	Definitions	7
Part 2	Types of waste	
6	Regulated waste	7
Part 2A	Designation of areas by local governments for general or green waste collection	
7	Designation of areas	8
Part 3	Obligations of operators of waste disposal sites	
Division 1	Weighbridges	
8	Weighbridge requirement provision—Act, s 43	8
Division 2	Waste data returns	
9	Prescribed waste disposal sites—Act, s 52	9
10	Prescribed day for giving waste data return—Act, s 52	9
11	Reporting period—Act, s 52	9
Part 3A	Container refund scheme	
Division 1	Prescribed matters for definitions	
12	Refund amount—Act, s 99K	10
13	Requirements for refund marking—Act, s 99K	10
14	Excluded liquids—Act, s 99L	10
15	Excluded containers—Act, s 99M	11
Division 2	Sale of beverages in containers	
16	Other matters for container recovery agreement—Act, s 99Q ..	13
17	Standard term for all container recovery agreements—Act, s 99Q	13
18	Further standard terms for particular container recovery agreements—	

Contents

	Act, s 99Q	14
19	Small beverage manufacturer—Act, s 99R	14
Division 3	Refund amounts for empty containers	
20	Bulk quantity—Act, s 99T	15
Division 4	Container collection agreements	
21	Other matters for container collection agreement—Act, s 99ZA .	15
22	Standard terms for particular container collection agreements—Act, s 99ZA	15
Division 5	Material recovery facilities	
23	Excluded facilities and places—Act, s 99ZE	16
24	Other matters for material recovery agreement—Act, s 99ZF ..	17
25	Standard term for all material recovery agreements—Act, s 99ZF	17
26	Further standard terms for particular material recovery agreements—Act, s 99ZF	17
27	Review of recovery amount protocol—Act, s 99ZK	19
Part 3B	Outcomes for Product Responsibility Organisation	
28	Purpose of part—Act, s 102ZF	19
29	Definition for part	19
30	Container recovery rate—preliminary years	20
31	Container recovery rates—other years	20
32	Container refund points	21
Part 4	Strategic planning for waste reduction and recycling	
38	Prescribed day—ss 123(1), 133(1) and 141(4)	21
39	Prescribed planning entity—Act, s 139	21
Part 5	Reporting about waste management	
40	Prescribed sector of reporting entities—Act, s 150	22
41	Prescribed threshold for reporting entities—Act, s 150	22
Part 5A	Used packaging materials	
Division 1	Preliminary	
Subdivision 1	General	
41A	Purpose of pt 5A	23
Subdivision 2	Interpretation	
41B	Definitions for pt 5A	23
41C	Meaning of complying brand owner	26
41D	Meaning of consumer packaging material	26
41E	Meaning of recovery rate	27

41F	General	27
Division 2	Responsibilities of particular brand owners	
41G	Application of div 2	28
41H	Brand owner to be notified of obligations	28
41I	Brand owner to achieve recovery rate of consumer packaging material 28	
41J	Special provision for brand owner notified of obligations in 2012–2013 financial year	29
41K	Special provision for brand owner notified of obligations during a financial year	29
41L	Action plans	29
41M	Brand owner not complying within financial year	31
41N	Brand owner to keep information and give information to chief executive 33	
41O	Request for exemption on ground of commercial confidentiality .	34
41P	Deciding request for exemption	35
Division 3	Kerbside recycling collectors to give information to chief executive	
41Q	Local government to give information to chief executive	36
41R	Kerbside recycling collectors to give information to chief executive	37
Division 4	Chief executive reporting requirements	
41S	Chief executive to give council information	38
Division 5	Other provisions	
41T	Survey of brand owners	39
41U	Review of part	39
41V	Person not required to comply with part if measure or covenant not in force	40
Part 5B	Management of clinical and related wastes	
41X	Segregation of waste	40
41Y	Design requirements for waste containers	41
41Z	Giving waste to another person for transport, storage, treatment or disposal	42
41ZA	Disposal of sharps	42
41ZB	Storage area for clinical or related waste	43
41ZC	Storage of clinical or related waste	43
41ZD	Treatment and disposal of clinical or related waste	44
Part 5C	Management of polychlorinated biphenyls (PCBs)	
Division 1	Preliminary	
41ZE	Definitions for pt 5C	44

Contents

41ZF	Types of PCB material	45
41ZG	Deciding if material or equipment is PCB-free	45
Division 2	Treatment of PCB material	
41ZH	Treatment of PCB material only at licensed treatment facilities	46
Division 3	Disposal of PCB waste	
41ZI	Waste that is scheduled PCB material must be sent for treatment	47
41ZJ	Prohibition on disposal of waste that is scheduled PCB material and liquid PCB waste	47
Division 4	Duties of occupier of premises with scheduled PCB material	
41ZK	Application of div 4	48
41ZL	Notice to chief executive	48
41ZM	Emergency plan	49
Division 5	Equipment containing PCB material	
41ZN	Use of equipment containing concentrated PCB material	50
41ZO	Exemption permitting use of equipment containing concentrated PCB material	50
41ZP	Use of equipment containing scheduled PCB material	51
41ZQ	Dealing with equipment that is no longer used	51
Part 6	Miscellaneous	
41ZR	Disposal ban waste—Act, s 100	52
42	Prescribed persons—Act, s 183	53
42A	Prescribed provisions for Act, s 245	53
42B	Laws—Act, schedule, definition corresponding law	53
43	Prescribed commercial activity—Act, schedule, definition municipal solid waste	54
44	Prescribed recycling activity—Act, schedule, definition recycling activity	54
45	Fees	56
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	56
47	Further standard terms for particular material recovery agreements—Act, s 99ZF	56
48	Transition period for displaying refund marking on beverage containers—Act, s 308	57
Schedule 5	Local governments for waste disposal sites—weighbridge requirement provision	58
Schedule 7	Fees	60

Schedule 7A	Design requirements for waste containers	62
Schedule 7B	Treatment and disposal of clinical and related waste	63
Schedule 7C	Disposal ban waste	64
Schedule 9	Dictionary	65

Waste Reduction and Recycling Regulation 2011

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Waste Reduction and Recycling Regulation 2011*.

2 Commencement

- (1) The following provisions commence on 1 December 2011—
 - (a) part 3, divisions 3, 4, 5, 6 and 7;
 - (b) parts 4, 5 and 8;
 - (c) schedules 4, 5, 6, and 9, parts 2 and 3.
- (2) Schedule 9, part 1, commences on 2 December 2011.

3 Definitions

The dictionary in schedule 9 defines particular words used in this regulation.

Part 2 Types of waste

6 Regulated waste

For the Act, schedule, definition regulated waste, waste is prescribed as regulated waste if it is regulated waste under the Environmental Protection Regulation 2008.

Part 2A Designation of areas by local governments for general or green waste collection

7 Designation of areas

A local government may—

- (a) by resolution, designate areas within its local government area in which the local government may conduct general waste or green waste collection; and
- (b) decide the frequency of general waste or green waste collection in the designated areas.

Note—

If a local government conducts general waste or green waste collection as a significant business activity, see the *Local Government Act 2009*, chapter 3, part 2, division 2 (Business reform, including competitive neutrality) and the *City of Brisbane Act 2010*, chapter 3, part 3, division 2 (Business reform, including competitive neutrality).

Part 3 Obligations of operators of waste disposal sites

Division 1 Weighbridges

8 Weighbridge requirement provision—Act, s 43

- (1) For section 43(1) of the Act, each waste disposal site located in the local government area for a local government mentioned in schedule 5 is prescribed.
- (2) For section 43(2) of the Act, the prescribed day for installing a weighbridge at a waste disposal site is—
 - (a) if section 43(2) of the Act applies to the site on or before 31 December 2014—31 December 2014; or

- (b) if section 43(2) of the Act starts applying to the site after 31 December 2014—the day that is within 1 year after the day the section starts applying to the site.

Division 2 Waste data returns

9 Prescribed waste disposal sites—Act, s 52

For section 52(1) of the Act, all waste disposal sites are prescribed.

10 Prescribed day for giving waste data return—Act, s 52

For section 52(2) of the Act, the day prescribed for an operator of a waste disposal site to give the chief executive a waste data return for a reporting period is—

- (a) for a relevant schedule 5 site—the last business day of the month immediately following the end of the reporting period for the site; or
- (b) for another waste disposal site—the last business day in the month of July occurring immediately after the end of the reporting period for the site.

11 Reporting period—Act, s 52

For section 52(2) of the Act—

- (a) each of the following periods in a financial year is prescribed as a reporting period for a relevant schedule 5 site—
 - (i) 1 July to 30 September;
 - (ii) 1 October to 31 December;
 - (iii) 1 January to 31 March;
 - (iv) 1 April to 30 June; and

[s 12]

- (b) the reporting period prescribed for a waste disposal site other than a relevant schedule 5 site is a financial year.

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—
 - (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
 - (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;

[s 15]

- (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—
 - (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—
 - (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
 - (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.

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 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 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 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.

Part 4 Strategic planning for waste reduction and recycling

38 Prescribed day—ss 123(1), 133(1) and 141(4)

For sections 123(1), 133(1) and 141(4) of the Act, the day prescribed is 30 June 2015.

39 Prescribed planning entity—Act, s 139

- (1) The following sectors of entities are prescribed for the Act, section 139(2)—
 - (a) blood banks;
 - (b) hospitals;
 - (c) laboratories that generate clinical waste;
 - (d) multi-service medical clinics;
 - (e) veterinary hospitals.

- (2) In this section—

blood bank means premises or a vehicle for receiving blood donations.

multi-service medical clinic means a medical centre that provides specialist procedures including radiology, pathology or surgical procedures.

[s 40]

veterinary hospital means premises at which veterinary science, within the meaning of the *Veterinary Surgeons Act 1936*, is practised.

Part 5 Reporting about waste management

40 Prescribed sector of reporting entities—Act, s 150

For the Act, section 150(2), the following sectors of entities are prescribed for a financial year—

- (a) entities carrying out a recycling activity during the financial year;
- (b) entities required, during the financial year, to hold an environmental authority under the *Environmental Protection Act 1994* for any of the following activities—
 - (i) crushing, milling, grinding or screening;
 - (ii) regulated waste recycling or reprocessing;
 - (iii) regulated waste treatment;
 - (iv) waste incineration and thermal treatment;
 - (v) waste transfer station operation;
- (c) waste facilities required, during the financial year, to hold an environmental authority under the *Environmental Protection Act 1994* for the disposal of waste at the facility.

41 Prescribed threshold for reporting entities—Act, s 150

- (1) For the Act, section 150(4)(a), the threshold prescribed is that an entity received, sorted, recycled, treated or disposed of at least 1000 tonnes of waste in the financial year immediately preceding the reporting year.
- (2) In this section—

reporting year means a financial year for which a reporting entity has an obligation to give the chief executive a report in compliance with the requirements under chapter 7, part 2, division 2 of the Act.

Part 5A Used packaging materials

Division 1 Preliminary

Subdivision 1 General

41A Purpose of pt 5A

The purpose of this part is to give effect to, and enforce compliance with, the measure.

Subdivision 2 Interpretation

41B Definitions for pt 5A

In this part—

brand owner means—

- (a) a person who is the owner or licensee in Australia of a trade mark under which a product is sold or otherwise distributed in Australia, whether the trade mark is registered or not; or
- (b) a person who is the franchisee in Australia of a business arrangement that allows an individual, partnership or company to operate under the name of an already established business; or
- (c) for a product that has been imported—the first person to sell the product in Australia; or

[s 41B]

- (d) for in-store packaging—the supplier of the packaging to the retailer; or
- (e) an importer or Australian manufacturer of plastic bags, or a retailer who supplies a plastic bag to a consumer for the transportation of products bought by consumers at the point of sale.

complying brand owner see section 41C.

consumer packaging means all packaging products made of any material, or combination of materials, for the containment, protection, marketing or handling of consumer products, and includes distribution packaging.

consumer packaging material see section 41D.

covenant means—

- (a) the ‘Australian Packaging Covenant’ made between governments and industry organisations to reduce the environmental impacts of consumer packaging; and
- (b) the annexures and schedules to the document mentioned in paragraph (a).

covenant signatory means a signatory to the covenant, and includes a person that accedes to the covenant after it is made, whether before or after the commencement of this part.

distribution packaging means all packaging that contains multiples of products (the same or mixed) intended for direct consumer sale, including—

- (a) secondary packaging used to secure or unitise multiples of consumer products including, for example, cardboard boxes and shrink film overwrap; or
- (b) tertiary packaging used to secure or unitise multiples of secondary packaging including, for example, pallet wrapping stretch film, shrink film and strapping.

free rider means a brand owner who is part of the packaging chain but is not a covenant signatory or is not producing equivalent outcomes to those achieved through the covenant.

kerbside recycling collection means roadside collection of domestic solid waste separated for recycling.

local government recycling provider see section 41Q(1).

measure means the *National Environment Protection (Used Packaging Materials) Measure 2011* dated 16 September 2011 made under the *National Environment Protection Council Act 1994* (Cwlth), the *National Environment Protection Council (Queensland) Act 1994* and particular Acts of other States.

packaging chain means the linkages among materials suppliers, packaging manufacturers, packaging fillers, wholesalers, retailers and consumers of packaged products.

plastic bag includes a single use lightweight plastic carry bag containing virgin or recycled plastic.

recover, for consumer packaging material, means that the consumer packaging material—

- (a) is reused; or
- (b) is recycled; or
- (c) becomes a secondary resource.

recovery rate see section 41E.

recycle, for a product, means use the product as a raw material to produce another product.

registered, for a trade mark, means registered under the *Trade Marks Act 1995*(Cwlth).

reuse, for a product, means use the product for the same or similar purpose as its original purpose without subjecting the product to a manufacturing process that would change its physical appearance.

secondary resource means a resource used or to be used—

- (a) to manufacture new consumer packaging or another product to replace raw or virgin materials; or
- (b) for energy recovery.

41C Meaning of *complying brand owner*

A *complying brand owner* is a brand owner—

- (a) who is a covenant signatory and is complying with the covenant; or
- (b) who is not a covenant signatory but is a brand owner to whom any of the following apply—
 - (i) the brand owner uses consumer packaging in which the brand owner's products are sold in a way that achieves environmental outcomes at least equivalent to the environmental outcomes stated for the packaging under the covenant;
 - (ii) the brand owner's business has, in the most recent financial year, had a gross turnover of less than \$5m;
 - (iii) the brand owner does not use consumer packaging.

41D Meaning of *consumer packaging material*

- (1) *Consumer packaging material* is consumer packaging made of one or more of the following materials—
 - (a) paper;
 - (b) cardboard;
 - (c) steel;
 - (d) aluminium;
 - (e) polyethylene terephthalate (PET) plastics;
 - (f) high density polyethylene (HDPE) plastics;
 - (g) other plastics, including—
 - (i) unplasticised polyvinyl chloride (UPVC) plastics;
or
 - (ii) plasticised polyvinyl chloride (PPVC) plastics; or
 - (iii) low density polyethylene (LDPE) plastics; or
 - (iv) polypropylene (PP) plastics; or

-
- (v) polystyrene (PS) plastics; or
 - (vi) expandable polystyrene (EPS) plastics.
- (2) **Consumer packaging material**, for a brand owner, is—
- (a) for a retailer—a plastic bag given or sold to a consumer for the transportation of products bought by the consumer from the retailer; or
 - (b) for an importer or Australian manufacturer of plastic bags—a plastic bag imported or manufactured, other than a plastic bag given or sold to a retailer for use as mentioned in paragraph (a); or
 - (c) for all other brand owners—consumer packaging material sold in carrying on the brand owner’s business.

41E Meaning of *recovery rate*

The *recovery rate*, for a brand owner, is the rate at which consumer packaging material is recovered by or for the brand owner, and is worked out by using the formula—

$$R = \frac{WR}{WS} \times 100\%$$

where—

R means the brand owner’s recovery rate.

WR means the weight of the consumer packaging material recovered by or for the brand owner.

WS means the weight of the brand owner’s consumer packaging material sold in Australia.

41F General

Unless this part provides otherwise, expressions used in this part that are defined in the measure have the meaning given to them in the measure.

Division 2 Responsibilities of particular brand owners

41G Application of div 2

- (1) This division applies to a brand owner other than a complying brand owner.
- (2) Despite subsection (1), this division applies to a brand owner only if the brand owner has received written notice of the brand owner's obligations under this division under section 41H.

41H Brand owner to be notified of obligations

If the chief executive is satisfied on reasonable grounds in the circumstances that a brand owner is not a complying brand owner, the chief executive may give a written notice to the brand owner stating the following—

- (a) that the division is in force;
- (b) that the division applies to the brand owner;
- (c) that the division does not apply to a complying brand owner.

41I Brand owner to achieve recovery rate of consumer packaging material

- (1) A brand owner must achieve a recovery rate of at least 70% in a financial year.

Maximum penalty—20 penalty units.

- (2) A brand owner may comply with subsection (1) by undertaking, or ensuring, the recovery of consumer packaging material that is of a size and type substantially the same as the brand owner's consumer packaging material.

Example—

A brand owner that packages its product in glass complies with subsection (1) if it recovers wine bottles that are not the brand owner's consumer packaging material.

41J Special provision for brand owner notified of obligations in 2012–2013 financial year

- (1) This section applies if a brand owner is given a notice under section 41H in the 2012–2013 financial year.
- (2) The brand owner must achieve a recovery rate of at least 70% from the day the brand owner receives a notice under section 41H until the end of the financial year.

Maximum penalty—20 penalty units.

41K Special provision for brand owner notified of obligations during a financial year

- (1) This section applies if a brand owner is given a notice under section 41H in a financial year other than the 2012–2013 financial year.
- (2) The brand owner must take reasonable steps to achieve a recovery rate of at least 70% for all of the financial year.

Maximum penalty—20 penalty units.

- (3) Subsection (2) applies to a brand owner even though the notice under section 41H was not given to the brand owner before the start of the financial year that the notice relates to.

41L Action plans

- (1) A brand owner must—
 - (a) create an action plan for a financial year that complies with the requirements of subsections (2) and (3); and
 - (b) give each action plan to the chief executive—
 - (i) 30 days after the brand owner receives a notice under section 41H; and

- (ii) for every subsequent financial year—at least 30 days before the start of the financial year.

Note—

Section 42A states that this subsection is a prescribed provision for section 245, definition *prescribed provision*, paragraph (b) of the Act.

- (2) The brand owner's action plan must, to the greatest possible extent, contain the following information—
 - (a) how the brand owner will ensure the systematic recovery of the brand owner's consumer packaging material, or packaging that is substantially the same as the brand owner's consumer packaging material;
 - (b) the quantity of each type of consumer packaging material sold and that is proposed to be recovered;
 - (c) how the brand owner intends to ensure the quantity proposed under paragraph (b) will be recovered;
 - (d) either—
 - (i) that all consumer packaging material to be recovered by or for the brand owner will be recovered in the following order (the *preferred order*)—
 - (A) for use in the brand owner's consumer packaging material;
 - (B) for use within the State as a secondary resource;
 - (C) for use within Australia as a secondary resource;
 - (D) for export as a secondary resource; or
 - (ii) that the brand owner considers it will be impracticable to recover the consumer packaging materials in the preferred order;
 - (e) if paragraph (d)(ii) applies—
 - (i) reasons why the brand owner considers the preferred order impracticable; and

- (ii) the order in which the materials will be recovered;
 - (f) how the brand owner intends to inform the public of the way the consumer packaging material is to be recovered.
- (3) The quantity mentioned in subsection (2)(b) must consist of at least the percentage of consumer packaging material required to be recovered by or for the brand owner as stated in section 41I, 41J or 41K.

41M Brand owner not complying within financial year

- (1) This section applies if the chief executive reasonably believes that—
- (a) in the financial year immediately before the current financial year a brand owner did not comply with the recovery rate under section 41I, 41J or 41K; and
 - (b) in the current financial year the brand owner will not achieve the recovery rate stated in section 41I for the financial year.
- (2) The chief executive may give a notice to the brand owner that states the following—
- (a) the chief executive reasonably believes the matters stated in subsection (1);
 - (b) that the brand owner is required, within a reasonable time stated in the notice, to state what steps have been taken, or will be taken, that are consistent with achieving the recovery rate stated in section 41I for the current financial year;
 - (c) failure to comply with the notice may result in the chief executive taking action under chapter 11 of the Act;
 - (d) the consequences of failing to comply with the compliance notice issued under chapter 11 of the Act;
 - (e) that submissions may be made about why the chief executive should not take action under chapter 11 of the Act;

- (f) how the submissions may be made;
 - (g) where the submissions may be made or sent;
 - (h) a period within which the submissions must be made.
- (3) The time stated in the notice under subsection (2)(b) must end at least 14 business days after the notice is given.
- (4) A brand owner who has been issued with a notice under subsection (2) may apply to the chief executive for an extension of time to comply with the notice.
- (5) The application under subsection (4) must—
- (a) be made before the day stated in the notice under subsection (2)(b); and
 - (b) state the reasons why the extension should be granted.
- (6) The chief executive may grant the application only if the chief executive believes that it is reasonable to extend the time stated in the notice.
- (7) The chief executive must, within 10 business days after an application under subsection (4) is received, decide whether to grant the extension and—
- (a) if the decision is to grant the extension—give the brand owner a written notice stating the new date by which the brand owner must comply with the notice; or
 - (b) if the decision is to refuse the extension—give the brand owner a written notice stating that the application is refused.
- (8) If the chief executive fails to advise the brand owner under subsection (7), the application for an extension is taken to have been refused.
- (9) The brand owner must comply with the requirement mentioned in subsection (2)(b), or make submissions as mentioned in subsection (2)(e), within—
- (a) the time stated in the notice given under subsection (2); or

- (b) if an extension of time has been granted by the chief executive—the new time decided by the chief executive.

Note—

Section 42A states that this subsection is a prescribed provision for section 245, definition *prescribed provision*, paragraph (b) of the Act.

41N Brand owner to keep information and give information to chief executive

- (1) A brand owner must prepare, for each financial year, and keep for at least 5 years after the end of the financial year—
- (a) the following information about each type of material for consumer packaging used by the brand owner in the year—
 - (i) the number of consumer packaging items made from the type of material;
 - (ii) the total weight of the type of material;
 - (iii) the total weight of the type of material sold in Australia; and
 - (b) the following information about the consumer packaging material recovered by or for the brand owner in the financial year—
 - (i) the total weight of each type of the consumer packaging material;
 - (ii) how much of each type of consumer packaging material was reused or recycled in Australia;
 - (iii) how much of each type of consumer packaging material was exported for reuse or recycling;
 - (iv) how much of the consumer packaging material was used for energy recovery;
 - (v) the recovery rate for the consumer packaging material; and
 - (c) information about the weight of the consumer packaging material that was collected by or for the

[s 41O]

brand owner in the financial year and that was disposed of as landfill; and

- (d) information about how consumers were advised about how the consumer packaging material would be recovered.

Note—

Section 42A states that this subsection is a prescribed provision for section 245, definition *prescribed provision*, paragraph (b) of the Act.

- (2) A brand owner must, for each financial year, give the information stated in subsection (1) to the chief executive by 30 September after the end of the financial year, unless the person has a reasonable excuse.

Note—

Section 42A states that this subsection is a prescribed provision for section 245, definition *prescribed provision*, paragraph (b) of the Act.

- (3) It is a reasonable excuse for an individual not to give the information stated in subsection (1) if giving the information might tend to incriminate the individual or expose the individual to a penalty.

- (4) In this section—

material, for consumer packaging, means consumer packaging made from—

- (a) any type of consumer packaging material; or
(b) material other than consumer packaging material (*non-consumer packaging material*); or
(c) a combination of consumer packaging material and non-consumer packaging material.

41O Request for exemption on ground of commercial confidentiality

- (1) A brand owner may, by written notice given to the chief executive, ask for an exemption from the requirement stated in section 41N(2) on the grounds of commercial confidentiality.

- (2) The notice must contain the information necessary to enable the chief executive to decide the request.
- (3) The chief executive may, by written notice given to the brand owner, ask the brand owner to give the chief executive, in the reasonable period stated in the notice, further relevant information to enable the chief executive to decide the request.
- (4) A notice under subsection (3) must be accompanied by, or include, the reasons the chief executive has made the request for further information.

41P Deciding request for exemption

- (1) The chief executive may grant a request for exemption under section 41O only if the chief executive reasonably believes the information would be—
 - (a) exempt information under the *Right to Information Act 2009*; or
 - (b) information disclosure of which could reasonably be expected to cause a public interest harm as mentioned in the *Right to Information Act 2009*, schedule 4, part 4, section 7.
- (2) If the chief executive grants the exemption, the brand owner is exempted from giving the information under section 41N(2) to the chief executive.
- (3) The chief executive must give the brand owner written notice of the chief executive's decision on the request for exemption.
- (4) If the chief executive refuses to grant the request, the notice must be an information notice about the decision to refuse to grant the request.
- (5) Subsection (6) applies if the chief executive does not give the brand owner a notice about the chief executive's decision on the request—
 - (a) within 60 days after the request is made; or

[s 41Q]

- (b) if the brand owner gave the chief executive further information under section 41O(3)—within 60 days after receiving the further information.
- (6) The chief executive’s failure to give the notice is taken to be a decision by the chief executive to refuse to grant the request at the end of the 60 days.

Division 3 Kerbside recycling collectors to give information to chief executive

41Q Local government to give information to chief executive

- (1) This section applies to a local government, or a regional grouping of local governments, that operates or provides a kerbside recycling collection service or other recycling system within a local government area (a *local government recycling provider*).
- (2) If the local government recycling provider operates or provides a kerbside recycling collection service, the local government recycling provider must, within 3 months after the end of each financial year in which the kerbside recycling collection service operates, give to the chief executive the following information for the financial year—
 - (a) the percentage of households with access to the kerbside recycling collection service;
 - (b) the participation rate for the kerbside recycling collection service;
 - (c) the fee charged to each household for the collection service;
 - (d) the total weight of recyclable material, however collected, in the local government area or areas;
 - (e) if the recyclable material collected is sorted—
 - (i) the total weight of each type of recyclable material collected; and

-
- (ii) if practicable, the total weight of each type of recyclable material that is the residue disposed of as landfill.
- (3) If the local government recycling provider operates or provides another recycling service, the local government recycling provider must, within 3 months after the end of each financial year in which the kerbside recycling collection service operates, give the chief executive information about the percentage of households with access to the recycling system.
- (4) If, after the commencement of this part, a local government recycling provider enters into a contract with another person, or an existing contract is renewed or novated, to provide a kerbside recycling collection service, the local government recycling provider must include an obligation in the contract for the other person to give the provider the information contained in subsections (2) and (3).
- (5) In this section—

household includes residential premises and non-residential premises supplied with a container for the collection of recyclable material by the operator of the service.

participation rate, for a kerbside recycling collection service, means the number of households or other premises making use of the service, expressed as a proportion of the number of households or premises to which the service is available.

recyclable material means material reasonably able to be recycled.

41R Kerbside recycling collectors to give information to chief executive

- (1) This section applies if—
- (a) a person other than a local government or regional grouping of local governments provides a kerbside recycling collection service in a local government area under a contract; and

[s 41S]

- (b) the contract does not require the person to give the information stated in section 41Q(2) and (3) to the local government or the regional grouping.
- (2) The chief executive may, at least one month before the end of the financial year to which the information relates, give a notice to the person stating the following—
 - (a) the information stated in section 41Q(2) and (3) that is required from the person;
 - (b) that the information must be given within 3 months after the end of the financial year to which the information relates;
 - (c) that failure to comply with the notice may result in the chief executive taking action under chapter 11 of the Act;
 - (d) the consequences of failing to comply with a compliance notice issued under chapter 11 of the Act.
- (3) The person must provide the information stated in the notice to the chief executive within 3 months after the end of the financial year to which the information relates.

Note—

Section 42A states that this subsection is a prescribed provision for section 245, definition *prescribed provision*, paragraph (b) of the Act.

Division 4 Chief executive reporting requirements

41S Chief executive to give council information

- (1) Within 6 months after the end of a financial year, the chief executive must give the council the following for the financial year—
 - (a) aggregate information based on information received from brand owners under section 41N;

-
- (b) aggregate information based on information received from local government recycling providers under section 41Q and from kerbside recycling collectors under section 41R;
 - (c) information gathered through surveys conducted under section 41T;
 - (d) information about—
 - (i) complaints received by the chief executive about matters arising under this part; and
 - (ii) investigations undertaken for the purposes of this part; and
 - (iii) prosecutions undertaken for offences under this part;
 - (e) a statement of interpretation that summarises and explains the information provided under this section.
- (2) In this section—
council means the Australian Packaging Covenant Council.

Division 5 Other provisions

41T Survey of brand owners

The chief executive may conduct a brand survey of packaged products or a survey of brand owners to determine the effectiveness of this part in stopping brand owners from being free riders.

41U Review of part

- (1) The chief executive must carry out a review of the operation of this part.
- (2) The review must be carried out at least every 5 years, but it may be undertaken more often if—

[s 41V]

- (a) the Minister directs the chief executive to conduct a review; or
 - (b) the covenant or the measure is being reviewed.
- (3) The objects of the review include—
- (a) evaluating the effectiveness of this part to prevent a brand owner from being a free rider; and
 - (b) deciding whether this part aligns with applicable waste management strategies, priority product statements or product stewardship arrangements then in effect.
- (4) The chief executive may conduct the review by surveying brand owners.

41V Person not required to comply with part if measure or covenant not in force

A person is not required to comply with this part if either of the following are not in force—

- (a) the covenant;
- (b) the measure.

Part 5B Management of clinical and related wastes

41X Segregation of waste

- (1) A person who operates premises at which clinical or related waste is generated must ensure the waste is segregated into—
- (a) the following categories of clinical waste—
 - (i) animal waste;
 - (ii) discarded sharps;
 - (iii) human tissue waste;

- (iv) laboratory and associated waste directly resulting from the processing of specimens; and
- (b) the following categories of related waste—
 - (i) chemical waste;
 - (ii) waste constituted by, or contaminated with, cytotoxic drugs;
 - (iii) human body parts;
 - (iv) pharmaceutical waste;
 - (v) radioactive waste; and
- (c) general waste.

Maximum penalty—20 penalty units.

- (2) It is a defence to a charge under subsection (1) for the defendant to prove that the waste will be given, for treatment or disposal, to a person who is authorised, under either of the following, to receive waste that is not segregated in the way required under subsection (1)—
 - (a) an environmental authority;
 - (b) a development condition of a development approval.

41Y Design requirements for waste containers

- (1) This section applies to a person who operates premises at which clinical or related waste is generated.
- (2) The person must ensure all bags and other containers used at the establishment for the collection, storage, transport or disposal of clinical and related waste mentioned in schedule 7A comply with the requirements for the waste in the schedule.

Maximum penalty—20 penalty units.

41Z Giving waste to another person for transport, storage, treatment or disposal

- (1) This section applies to a person who operates premises at which clinical or related waste is generated.
- (2) The person must not give the waste to another person for transport, storage, treatment or disposal unless the other person is the holder of, or a person acting under, an environmental authority for transporting, storing, treating or disposing of the waste.

Maximum penalty—20 penalty units.

- (3) It is a defence to a charge under subsection (2) for the defendant to prove there were reasonable grounds for believing the other person had an environmental authority for transporting, storing, treating or disposing of the waste.

41ZA Disposal of sharps

- (1) Subsection (2) applies to a person who discards—
 - (a) at a residential premises, a hypodermic needle that has been in contact with human or animal tissue or body fluids; or
 - (b) at a place other than a residential premises, a hypodermic needle or other sharp.
- (2) The person must—
 - (a) place the needle or other sharp in a rigid-walled, puncture-resistant container; and
 - (b) seal or securely close the container.

Maximum penalty—20 penalty units.

- (3) Subsection (4) applies to a person who discards a needle or other sharp at premises at which clinical or related waste is generated.
- (4) The person must place the needle or other sharp in a container that complies with—

-
- (a) the ‘Australian/New Zealand Standard for Reusable containers for the collection of sharp items used in human and animal medical applications: AS/NZS 4261:1994’ published by Standards Australia; or
 - (b) the ‘Australian Standard for Non-reusable containers for the collection of sharp medical items used in health care areas: AS 4031-1992’ published by Standards Australia.

Maximum penalty—20 penalty units.

- (5) Also, a person who discards a needle or other sharp under subsection (2) or (4) must ensure it is not accessible to another person.

Maximum penalty—20 penalty units.

41ZB Storage area for clinical or related waste

A person who operates premises at which clinical or related waste is generated—

- (a) must set aside an area for storing the waste that is not accessible to animals or persons, other than persons who are authorised by the person operating the premises to enter the area; and
- (b) must not store the waste anywhere other than an area mentioned in paragraph (a).

Maximum penalty—20 penalty units.

41ZC Storage of clinical or related waste

- (1) A person who operates premises at which clinical or related waste is generated and stored must ensure the waste does not create an environmental nuisance after it is generated.

Maximum penalty—20 penalty units.

- (2) In this section—

environmental nuisance see the Environmental Protection Act, section 15.

[s 41ZD]

41ZD Treatment and disposal of clinical or related waste

A person who operates premises at which clinical or related waste is generated must ensure the waste is treated and disposed of in accordance with schedule 7B.

Maximum penalty—20 penalty units.

Part 5C Management of polychlorinated biphenyls (PCBs)

Division 1 Preliminary

41ZE Definitions for pt 5C

In this part—

concentrated, for PCB material, see section 41ZF(4).

diluent means a matrix within which PCBs are distributed such as, for example, oil, soil or concrete, but does not include the casing or other solid surrounding the matrix.

licensed disposal facility means—

- (a) a facility in Queensland authorised, under any of the following, to be used for disposing of PCB waste—
 - (i) a development condition of a development approval;
 - (ii) an environmental authority; or
- (b) a facility in another State authorised to be used under a licence, approval or other authority, given under a law of that State, to dispose of PCB waste.

licensed treatment facility means—

- (a) a facility in Queensland authorised, under any of the following, to be used for treating PCB waste—
 - (i) a development condition of a development approval;

- (ii) an environmental authority; or
- (b) a facility in another State authorised to be used under a licence, approval or other authority, given under a law of that State, to treat PCB material.

non-scheduled, for PCB material, means PCB material that is not scheduled PCB material.

PCB means a polychlorinated biphenyl.

PCB-free see section 41ZG(1).

PCB material means—

- (a) PCBs that are not in a diluent; or
- (b) PCBs in a diluent in a concentration of at least 2mg/kg.

PCB waste means waste that is PCB material.

scheduled, for PCB material, see section 41ZF(3).

41ZF Types of PCB material

- (1) This part applies to PCB material according to the amount and concentration of PCBs in the PCB material.
- (2) PCB material is either scheduled or non-scheduled.
- (3) PCB material is **scheduled** if—
 - (a) the concentration of PCBs in the material is at least 50mg/kg; and
 - (b) the material contains at least 50g of PCBs.
- (4) PCB material is **concentrated** if—
 - (a) the concentration of PCBs in the material is at least 100,000mg/kg; and
 - (b) the material contains at least 50g of PCBs.

41ZG Deciding if material or equipment is PCB-free

- (1) For this part—

[s 41ZH]

- (a) material is *PCB-free* if it is not PCB material; and
 - (b) equipment is *PCB-free* if—
 - (i) there is no PCB material in the equipment other than on the surface area of the PCB-contaminated metal in the equipment; and
 - (ii) the PCB-contaminated metal in the equipment does not have a coverage of PCBs on its surface area of more than 1mg/m², as decided under the guidelines mentioned in subsection (2).
- (2) The chief executive must—
- (a) prepare guidelines for deciding the coverage of PCBs on the surface area of PCB-contaminated metal; and
 - (b) make the guidelines available to the public, whether published on the department’s website or otherwise, free of charge or on payment of a reasonable fee.
- (3) In this section—
- PCB-contaminated metal*, in equipment, means metal that normally comes into contact with PCB material when the equipment is used.

Division 2 Treatment of PCB material

41ZH Treatment of PCB material only at licensed treatment facilities

- (1) A person must not dilute, disaggregate or otherwise treat PCB material at a place other than a licensed treatment facility.

Note—

Section 42A states that this subsection is a prescribed provision for section 245, definition *prescribed provision*, paragraph (b) of the Act.

- (2) For this section, a person does not treat PCB material if the person merely—
- (a) removes PCB material from equipment; or

-
- (b) refills equipment containing PCB material for the purpose of the continued operation of the equipment.

Division 3 Disposal of PCB waste

41ZI Waste that is scheduled PCB material must be sent for treatment

- (1) A person who generates waste that is scheduled PCB material must give the waste to a licensed treatment facility for treatment within 1 year after the waste is generated.

Maximum penalty—20 penalty units.

- (2) It is a defence to a charge under subsection (1) for the person to show the person has a reasonable excuse for not complying.

Example—

It is a reasonable excuse that there is no licensed treatment facility to which the waste can be given within 1 year after it is generated.

- (3) If the person is not able to comply with subsection (1), the person must—

- (a) give a written notice to the chief executive stating—
- (i) the person is not able to comply with subsection (1), and the reason; and
 - (ii) how the person will ensure the waste is taken to a licensed treatment facility for treatment as soon as practicable; and
- (b) give the waste to a licensed treatment facility, for treatment, as soon as is practicable.

Maximum penalty—20 penalty units.

41ZJ Prohibition on disposal of waste that is scheduled PCB material and liquid PCB waste

A person must not dispose of waste that is scheduled PCB material or liquid PCB waste to a landfill.

Maximum penalty—20 penalty units.

Division 4 Duties of occupier of premises with scheduled PCB material

41ZK Application of div 4

This division applies to a person who occupies premises at which there is an amount of scheduled PCB material containing more than 10kg of PCBs.

41ZL Notice to chief executive

- (1) The person must give a notice to the chief executive, within 3 months after this division starts to apply to the person, stating—
 - (a) the person's name and address; and
 - (b) the date of the notice; and
 - (c) the prescribed information about the material at the premises.

Maximum penalty—10 penalty units.

- (2) If there is a change in any of the prescribed information stated in a notice given by a person under this section, the person must give a further notice to the chief executive, not later than 3 months after the change, stating—
 - (a) the person's name and address; and
 - (b) the date of the notice; and
 - (c) the day the change happened; and
 - (d) the particulars of the change.

Maximum penalty—10 penalty units.

- (3) In this section—

prescribed information, about the scheduled PCB material at a premises, means—

- (a) the amount of the material; and
- (b) the amount and concentration of PCBs in the material;
and
- (c) where the material is located at the premises.

41ZM Emergency plan

- (1) The person must prepare an emergency plan for the premises, within 90 days after this division starts to apply to the person, and must keep the plan up to date.

Maximum penalty—5 penalty units.

- (2) In this section—

emergency plan, for a premises, means a plan that addresses—

- (a) monitoring and recording—
 - (i) the amount of scheduled PCB material at the premises; and
 - (ii) where the material is located; and
 - (iii) access to the material; and
- (b) the following issues concerning relevant incidents at the premises—
 - (i) minimising the risks of an incident;
 - (ii) timely and effective containment of an incident;
 - (iii) timely and effective clean-up and repairs after an incident;
 - (iv) managing waste generated by the clean-up or repairs.

relevant incident, at a premises, means a fire at the premises or a spill or other accident involving scheduled PCB material at the premises.

Division 5 Equipment containing PCB material

41ZN Use of equipment containing concentrated PCB material

- (1) A person must not use equipment containing concentrated PCB material if the person knows, or ought reasonably to know, that the equipment contains concentrated PCB material.
Maximum penalty—20 penalty units.
- (2) Subsection (1) does not apply if there is a current exemption for the equipment given under section 41ZO.

41ZO Exemption permitting use of equipment containing concentrated PCB material

- (1) A person may apply to the chief executive to—
 - (a) exempt equipment from the application of section 41ZN; or
 - (b) extend an exemption given under paragraph (a) for 1 or more further periods.
- (2) The chief executive may give or extend an exemption for equipment only if the chief executive is satisfied the equipment is not—
 - (a) near a food processing facility, animal feedlot, school or hospital; or
 - (b) in a potable surface or underground water catchment area, aquatic spawning area or endangered wildlife habitat; or
 - (c) at another place requiring higher than usual protection against environmental harm from a spill or other accident involving concentrated PCB material.
- (3) An exemption may be given on reasonable conditions.
- (4) An applicant for an exemption must give the chief executive the information the chief executive reasonably requires to decide the application.

- (5) If the chief executive decides to refuse the request, the notice must be an information notice about the decision.
- (6) If the chief executive has not decided the application by the due day, the chief executive is taken to have refused the application.
- (7) In this section—

due day, for deciding an application, means—

- (a) the sixtieth day after the application is made, not including a day the chief executive asks for information under subsection (4), a day the applicant gives the requested information, and any days in between; or
- (b) any later day agreed between the chief executive and the applicant.

endangered wildlife see the *Nature Conservation Act 1992*, schedule.

environmental harm see the Environmental Protection Act, section 14.

41ZP Use of equipment containing scheduled PCB material

A person must not use equipment containing scheduled PCB material, other than concentrated PCB material, if the person knows, or ought reasonably to know, that the equipment contains scheduled PCB material.

Maximum penalty—20 penalty units.

41ZQ Dealing with equipment that is no longer used

- (1) This section applies to the owner of equipment containing PCB material.
- (2) Not later than 1 year after the equipment is permanently removed from operational use, the owner must deal with the equipment as follows—
 - (a) if the equipment contains concentrated PCB material, the owner must give the equipment to a licensed

[s 41ZR]

- treatment facility for treatment so the equipment becomes PCB-free;
- (b) if the equipment contains scheduled PCB material that is not concentrated PCB material, the owner must—
 - (i) treat the equipment so the equipment becomes PCB-free; or
 - (ii) give the equipment to a licensed treatment facility for treatment so the equipment becomes PCB-free;
 - (c) if the equipment contains non-scheduled PCB material, the owner must—
 - (i) treat the equipment so the equipment becomes PCB-free; or
 - (ii) give the equipment to a licensed treatment facility for treatment so the equipment becomes PCB-free; or
 - (iii) give the equipment to a licensed disposal facility.

Maximum penalty—20 penalty units.

- (3) It is a defence to a charge of an offence against subsection (2) for the owner to show the owner has a reasonable excuse for not complying with subsection (2).
- (4) If the owner does not comply with subsection (2) because the owner has a reasonable excuse, the owner must deal with the equipment in the way required by subsection (2) as soon as practicable.

Maximum penalty—20 penalty units.

Part 6 Miscellaneous

41ZR Disposal ban waste—Act, s 100

For chapter 4, part 4 of the Act—

- (a) schedule 7C, column 2 identifies the types of waste that are disposal ban waste for the part of the State mentioned opposite the waste in column 1; and
- (b) schedule 7C, column 3 identifies the day the waste became disposal ban waste for that part of the State.

42 Prescribed persons—Act, s 183

For the Act, section 183(1)(c), the following persons are prescribed—

- (a) a council employee under the *City of Brisbane Act 2010*;
- (b) a local government employee under the *Local Government Act 2009*.

42A Prescribed provisions for Act, s 245

The following provisions of this regulation are prescribed provisions for the Act, section 245, definition *prescribed provision*, paragraph (b)—

- section 41L(1);
- section 41M(9);
- section 41N(1) and (2);
- section 41R(3);
- section 41ZH(1).

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;

[s 43]

- (c) *Waste Avoidance and Resource Recovery Act 2001* (NSW), part 5;
- (d) *Waste Management and Resource Recovery Act 2016* (ACT), part 10A.

43 Prescribed commercial activity—Act, schedule, definition *municipal solid waste*

The following commercial activities are prescribed for the Act, schedule, definition *municipal solid waste*, item 2, paragraph (c)—

- (a) sorting of waste;
- (b) resource recovery from waste;
- (c) reprocessing and recycling operations.

44 Prescribed recycling activity—Act, schedule, definition *recycling activity*

(1) The following activities are prescribed for the Act, schedule, definition *recycling activity*, paragraph (j)—

- (a) mulching green waste;
- (b) recycling construction and demolition waste;
- (c) recycling mattresses;
- (d) composting and soil conditioner manufacturing.

(2) In this section—

composting and soil conditioner manufacturing means manufacturing, from organic material or organic waste, compost or soil conditioners other than—

- (a) manufacturing mushroom growing substrate; or
- (b) composting material from agriculture or livestock on the site where the material is produced.

construction and demolition waste—

-
- (a) means waste generated as a result of carrying out building work within the meaning of the *Building Act 1975*, section 5; and
 - (b) without limiting paragraph (a), includes waste generated by building, repairing, altering or demolishing infrastructure for roads, bridges, tunnels, sewage, water, electricity, telecommunications, airports, docks or rail.

organic waste—

- (a) includes the following—
 - (i) a substance used for manufacturing fertiliser for agricultural, horticultural or garden use;
 - (ii) animal manure;
 - (iii) biosolids;
 - (iv) cardboard and paper waste;
 - (v) fish processing waste;
 - (vi) food and food processing waste;
 - (vii) plant material;
 - (viii) poultry processing waste;
 - (ix) waste generated from an abattoir; but
- (b) does not include—
 - (i) clinical waste; or
 - (ii) related waste; or
 - (iii) contaminated soil; or
 - (iv) organic chemicals, other than a substance mentioned in paragraph (a)(i); or
Examples of organic chemicals for subparagraph (iv)—
 - chlorinated hydrocarbons, lubricating greases, pesticides, tars
 - (v) plastics that are not compostable.

45 Fees

The fees payable under the Act are in schedule 7.

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.

Schedule 5 Local governments for waste disposal sites—weighbridge requirement provision

section 8

- 1 Banana Shire Council
- 2 Brisbane City Council
- 3 Bundaberg Regional Council
- 4 Burdekin Shire Council
- 5 Cairns Regional Council
- 6 Cassowary Coast Regional Council
- 7 Central Highlands Regional Council
- 8 Charters Towers Regional Council
- 9 Fraser Coast Regional Council
- 10 Gladstone Regional Council
- 11 Gold Coast City Council
- 13 Gympie Regional Council
- 14 Hinchinbrook Shire Council
- 15 Ipswich City Council
- 16 Isaac Regional Council
- 17 Lockyer Valley Regional Council
- 18 Logan City Council
- 19 Mackay Regional Council
- 20 Moreton Bay Regional Council
- 21 Mount Isa City Council
- 22 North Burnett Regional Council
- 23 Redland City Council

- 24 Rockhampton Regional Council
- 25 Scenic Rim Regional Council
- 26 Somerset Regional Council
- 27 South Burnett Regional Council
- 28 Southern Downs Regional Council
- 29 Sunshine Coast Regional Council
- 30 Tablelands Regional Council
- 31 Toowoomba Regional Council
- 32 Townsville City Council
- 33 Western Downs Regional Council
- 34 Whitsunday Regional Council

Schedule 7 Fees




section 45

	\$
1 Application for accreditation of a voluntary product stewardship scheme (Act, s 89(2)(c))	395.20
2 Application for an end of waste approval (Act, s 173S(c))—	
(a) for using a liquid waste as a soil conditioner or fertiliser—	
(i) if the waste is a result of coal seam gas extraction	18,064.00
(ii) otherwise	7,229.00
(b) for using a sludge or soil waste as a soil conditioner or fertiliser—	
(i) if the waste is biosolids	2,714.00
(ii) otherwise	7,229.00
(c) for using any kind of waste as a resource for an industrial activity—	
(i) if associated with the carrying out of an ERA	3,618.00
(ii) otherwise	5,423.00
(d) for using any kind of waste as a resource for augmenting a water supply	63,204.00
(e) otherwise	2,714.00
3 Application to amend an end of waste approval (Act, s 173S(c))	50% of the application fee mentioned in item 2

	\$
4 Application to transfer an end of waste approval (Act, s 173S(c))	130.70

Schedule 7A Design requirements for waste containers

section 41Y

Waste	Container	Symbol colour	Symbol	Identification
clinical	yellow	black		clinical waste
cytotoxic	purple	white		cytotoxic waste-incinerate at 1100°C
radioactive	red	black		radioactive waste

Schedule 7B Treatment and disposal of clinical and related waste

section 41ZD

Waste type	Treatment and disposal process						
	Incineration	Auto-claving and shredding	Chemical disinfection using hypochlorite and shredding	Chemical disinfection using peroxide, lime and shredding	Micro wave and shredding	Compaction	Landfill
chemical	yes (if licensed)	no	no	no	no	no	no
cytotoxic	yes	no	no	no	no	no	no
human body parts	yes	no	no	yes	no	no	no
pharmaceutical	yes	no	no	no	no	no	no
radioactive	no	no	no	no	no	no	no
treated clinical	—	—	—	—	—	yes	yes
untreated clinical	yes	yes	yes	yes	yes	yes (other than animal carcasses and sharps)	no (other than in a scheduled area)

Schedule 7C Disposal ban waste

section 41ZR

Column 1 Part of State	Column 2 Type of waste	Column 3 Effective date
all of the State	liquid PCB waste related waste waste that is scheduled PCB material	1 September 2014
all of the State, other than a scheduled area	untreated clinical waste	1 September 2014

Schedule 9 Dictionary

section 3

animal waste means any discarded materials, including carcasses, body parts, blood or bedding, originating from animals contaminated with an agent infectious to humans or from animals inoculated during research, production of biologicals or pharmaceutical testing with infectious agents.

biosolids—

- (a) means stabilised organic solids produced by wastewater treatment processes; but
- (b) does not include untreated wastewater sludge, industrial sludge or by-products from high temperature incineration of sewerage sludge.

brand owner, for part 5A, see section 41B.

chemical see the *Environmental Protection Regulation 2008*, schedule 12.

chemical waste means waste generated from the use of chemicals in medical, dental, veterinary and laboratory procedures, including, for example, mercury, formalin and gluteraldehyde.

clinical waste means waste that has the potential to cause disease, including, for example, the following—

- (a) animal waste;
- (b) discarded sharps;
- (c) human tissue waste;
- (d) laboratory waste.

complying brand owner, for part 5A, see section 41C.

concentrated, for PCB material, for part 5C, see section 41ZF(4).

consumer packaging, for part 5A, see section 41B.

consumer packaging material, for part 5A, see section 41D.

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

covenant, for part 5A, see section 41B.

covenant signatory, for part 5A, see section 41B.

cytotoxic drug means a drug known to have carcinogenic, mutagenic or teratogenic potential.

cytotoxic waste means waste that is contaminated by a cytotoxic drug.

development approval means a development approval under the *Planning Act 2016*.

development condition—

- 1 **Development condition**, of a development approval, means a condition of the approval imposed by, or imposed because of a requirement of—
 - (a) the administering authority under the Environmental Protection Act; or
 - (b) the chief executive of the department in which the *Planning Act 2016* is administered, as the assessment manager or a referral agency for the application for the approval.
- 2 The term includes a reference to a condition mentioned in the *State Development and Public Works Organisation Act 1971*, section 39(1)(a).
- 3 To remove any doubt, it is declared that if a condition mentioned in clause 1 was imposed on a development approval because the approval related to an environmentally relevant activity, the condition does not stop being a development condition only because the activity stops being an environmentally relevant activity.

diluent, for part 5C, see section 41ZE.

distribution packaging, for part 5A, see section 41B.

environmentally relevant activity see the Environmental Protection Act, section 18.

ERA means environmentally relevant activity.

free-flowing, for blood, or body fluids, means blood, blood products or body fluid that is flowing, dripping, oozing, liquid or able to be squeezed from material.

free rider, for part 5A, see section 41B.

general waste means waste other than regulated waste.

green waste means grass cuttings, trees, bushes, shrubs, loppings of trees, bushes or shrubs, or similar matter produced as a result of the ordinary use or occupation of premises.

hospital has the meaning given by the *Hospital and Health Boards Act 2011*, schedule 2 and includes a dental hospital or hospice.

human body parts means recognisable organs, bones and gross body parts but does not include teeth, gums, hair, nails, bone fragments or a placenta if it is to be retained by a parent or guardian.

human tissue waste means the following—

- (a) tissue, blood, blood products and other body fluids that are removed from a person during surgery, an autopsy or another medical procedure;
- (b) tissue, blood, blood products and other body fluids that are removed from a person during post-operative care or treatment;
- (c) specimens of tissue, blood, blood products and other body fluids and containers in which the specimens are kept;
- (d) discarded material saturated with, or containing free-flowing blood and other body fluids.

kerbside recycling collection, for part 5A, see section 41B.

laboratory waste means a specimen or culture discarded in the course of dental, medical or veterinary practice or research, including material that is, or has been contaminated by, genetically manipulated material or imported biological material.

licensed, for schedule 7B, means the person who operates the premises holds, or is acting under, the required authority for the activity.

licensed disposal facility, for part 5C, see section 41ZE.

licensed treatment facility, for part 5C, see section 41ZE.

local government recycling provider, for part 5A, see section 41Q(1).

measure, for part 5A, see section 41B.

non-scheduled, for PCB material, for part 5C, see section 41ZE.

packaging chain, for part 5A, see section 41B.

PCB, for part 5C, see section 41ZE.

PCB-free, for part 5C, see section 41ZG(1).

PCB material, for part 5C, see section 41ZE.

PCB waste, for part 5C, see section 41ZE.

pharmaceutical product means a restricted drug under the *Health (Drugs and Poisons) Regulation 1996*.

pharmaceutical waste means waste arising from—

- (a) pharmaceutical products that have passed their recommended shelf life; and
- (b) pharmaceutical products discarded due to off-specification batches or contaminated packaging; and
- (c) pharmaceutical products returned by patients or discarded by the public; and
- (d) pharmaceutical products no longer required by the public; and
- (e) waste generated during the manufacture of pharmaceutical products.

plastic bag, for part 5A, see section 41B.

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.

radioactive substance see the *Radiation Safety Act 1999*, schedule 2.

radioactive waste means waste that is contaminated with a radioactive substance.

recovery rate, for part 5A, see section 41E.

recovery sharing arrangement see section 26(1).

recycle, for part 5A, see section 41B.

registered, for part 5A, see section 41B.

related waste means waste that constitutes, or is contaminated with, chemicals, cytotoxic drugs, human body parts, pharmaceutical products or radioactive substances.

relevant schedule 5 site means a waste disposal site located in the local government area of a local government mentioned in schedule 5, if the operator of the site is required to hold an environmental authority for the disposal of more than 5000t of waste in a year at the site.

residential premises means—

- (a) domestic premises; or
- (b) a boarding house, hostel, lodging house or guest house.

reuse, for part 5A, see section 41B.

scheduled, for PCB material, for part 5C, see section 41ZF(3).

scheduled area see the *Environmental Protection Regulation 2008*, section 15.

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.

secondary resource, for part 5A, see section 41B.

sharp means an object or device having sharp points, protuberances or cutting edges that are capable of causing a penetrating injury to humans.

tissue does not include human body parts, teeth, hair, nail, gums and bone.

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