



Queensland

Waste Reduction and Recycling Regulation 2011

Explanatory Notes for SL 2011 No. 231

made under the

Waste Reduction and Recycling Act 2011

General outline

Short title

Waste Reduction and Recycling Regulation 2011.

Authorising law

The regulation, in general, is made under the head of power contained in section 270 of the *Waste Reduction and Recycling Act 2011*, where subsection (1) states "The Governor in Council may make regulations under this Act".

In addition, a number of specific regulation making powers are provided in the *Waste Reduction and Recycling Act 2011*, such as section 26 *Exempt waste* (g)(i) which provides that exempt waste may also be other waste "prescribed under a regulation to be exempt waste"; and section 29(3)(c) which provides that an application for approval of waste as exempt waste must be "accompanied by the fee prescribed under a regulation".

Policy objectives of the legislation

The primary objective of the *Waste Reduction and Recycling Act 2011* is to create new legislation in respect to waste management and resource

recovery in Queensland. The main objectives of the Act in relation to waste management are to:

- promote waste avoidance and reduction
- reduce the overall impact of waste generation
- promote resource recovery and efficiency actions
- promote the sustainable use of natural resources
- encourage the use of recovered resources
- ensure a shared responsibility between government, business and industry and the community
- support and implement national frameworks

The objective of the *Waste Reduction and Recycling Regulation 2011* is to implement provisions of the *Waste Reduction and Recycling Act 2011*.

How the objectives will be achieved

The policy objectives are to be met by:

- providing definitions for the types of waste to which the levy applies, including commercial and industrial waste and construction and demolition waste and regulated waste
- stating the applicable levy rates for each type of waste
- stating the local government areas that form the levy zone
- providing the formulas for calculating the levy liability to be paid
- identifying types of wastes that are exempt wastes
- providing the criteria for deciding applications for levy exemptions for certain types waste, such as contaminated soil
- prescribing additional activities as recycling activities
- providing efficiency thresholds for determining an application for a levy discount for residue waste from recycling activities
- prescribing requirements for a resource recovery area and additional activities that may be undertaken in a resource recovery area

- providing the criteria for determining low and high hazard regulated waste
- identifying reporting and planning entities
- setting relevant fees.

Consistency with other legislation

This regulation is consistent with the policy objectives of other legislation including the *Environmental Protection Act 1994*.

The requirement under the *Statutory Instruments Act 1992* to prepare a regulatory assessment statement has been complied with.

Consistency with authorising Act

This regulation is consistent with the *Waste Reduction and Recycling Act 2011* (the Act).

Possible alternative approach

Potentially, a number of the provisions contained in the Regulation could have been suitable for a guideline or technical manual. For example, the Act provides for the Regulation to prescribe the weight measurement criteria (i.e. a load conversion factor methodology) which must be used to measure the waste when a weighbridge is not in use. New South Wales allow a similar method to convert volume to tonnes to calculate the levy payable. However, the conversion factors in NSW are contained in a guideline rather than prescribed by legislation.

The weight measurement criteria have been included in the Regulation to provide certainty to transporters of waste and for the levyable waste disposal site operator in calculating the levy liability. It also provides for a consistent way of measuring the waste in each load where a site does not have a weighbridge or where the weighbridge is inoperable.

In relation to the levy, the Regulatory Assessment Statement assessed two options against a business-as-usual approach. Option 1 was the inclusion of municipal solid waste at a levy rate of \$35 per tonne. Option 2 was the exclusion of municipal solid waste from application of the levy-thereby

applying a \$0 levy rate. Although option 1 was more beneficial, option 2 was adopted to ensure the levy had minimal impact on households.

Consistency with fundamental legislative principles

The *Legislative Standards Act 1992* outlines a number of fundamental legislative principles. These principles require that the legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament. This Regulation is consistent with these and the other fundamental legislative principles, including natural justice, appropriate review and delegation of administrative power, clarity and precision of legislation, adequacy of the head of power to make subordinate legislation and consistency with its primary Act.

Benefits and costs of implementation

A detailed statement of costs and benefits is contained in the Regulatory Assessment Statement on the impact of the levy which was prepared for the Act.

Consultation

Public consultation was conducted through the Regulatory Assessment Statement on the levy impact, which was released in accordance with the *Statutory Instruments Act 1992*. All comments made during public consultation were considered and, where appropriate, this Regulation reflects these comments.

A Stakeholder Advisory Committee was established in June 2010 to provide advice on various aspects of the waste reforms, including the development of the *Waste Reduction and Recycling Act 2011* and supporting Regulation.

Stakeholders represented on the Stakeholder Advisory Committee were:

- Local Government Association of Queensland
- Waste Contractors and Recyclers Association (Qld)
- Waste Management Association of Australia (Qld Branch)
- Australian Council of Recycling
- Australian Industry Group

- Queensland Chamber of Commerce and Industry
- Master Builders Queensland
- Urban Development Institute of Australia
- Council of Mayors Southeast Queensland
- Keep Australia Beautiful (Qld)
- Queensland Conservation Council

Technical Working Groups were also established under the Stakeholder Advisory Committee to provide technical input into aspects around the waste stream definitions-including for municipal solid waste, commercial and industrial waste and construction and demolition waste-weight measurement criteria and the low and high hazard regulated waste classification process. During discussions and consultation on these issues, it was flagged that these elements would more than likely form part of the Regulation rather than the Act although the definition of municipal solid waste was later incorporated into the Act.

Targeted stakeholder consultation on the draft Regulation was undertaken between 1 September and 26 September 2011. Submissions were received from:

- Waste Contractors and Recyclers Association (Queensland)
- Australian Industry Group
- Royal National Agricultural and Industrial Association of Queensland
- AceWaste
- Local Government Association of Queensland
- Veolia Environmental Solutions

Meetings were also held with the Australian Landfill Owners Association (ALOA) and the Australian Council of Recycling (ACOR) to discuss specific issues of interest for these peak bodies.

Results of consultation

No significant issues were raised by stakeholders in relation to the Regulation consultation draft. Some amendments were made to the Regulation as a result of the feedback from stakeholder consultation

including for example: changes to efficiency thresholds for timber recycling where the timber is treated with CCA and changes to the restrictions on the size of a resource recovery area.

Notes on provisions

Part 1 Preliminary

1 Short title

Clause 1 states that the short title of this legislation is the *Waste Reduction and Recycling Regulation 2011*.

2 Commencement

Clause 2 provides for the commencement of this regulation.

3 Definitions

Clause 3 states that particular terms used in this regulation are defined in the dictionary in schedule 10.

Part 2 Types of waste

4 What is commercial and industrial waste

Clause 4 provides the definition for *commercial and industrial waste*.

Commercial and industrial waste is waste produced as a result of carrying out any of the following activities:

- manufacturing and industrial processes
- mining
- wholesale or retail trading
- sorting, resource recovery, reprocessing and recycling operations

- activities carried out at a domestic premises under a commercial arrangement

An example would be renovation work performed for the householder by a builder.

- accommodation services

Examples include motels, hotels and caravan parks.

- hospitality services, including catering
- primary industries, including agricultural, forestry and fishing
- veterinary science under the *Veterinary Surgeons Act 1936*, section 2A
- health services, including operating a nursing home
- educational services

Examples include state or private schools, universities, kindergarten, TAFE.

- activities carried out by charities

Note that while the waste from charities is considered commercial and industrial waste, some charities that are a *charitable recycling organisation* are eligible to apply for an exemption from the levy.

- activities carried out at churches
- organising concerts and other entertainment events
- other business activities, including administrative services

Commercial and industrial waste does not include waste that is *construction and demolition waste* (see below).

5 What is construction and demolition waste

Clause 5 defines *construction and demolition waste* with reference to section 5 of the *Building Act 1975*.

Construction and demolition waste is waste generated as a result of carrying out building work, as defined in section 5 of the *Building Act 1975*.

The clause makes it clear that *construction and demolition waste* includes waste generated by building, repairing, altering, or demolishing infrastructure including roads, bridges, tunnels, etc.

6 Regulated waste

Clause 6 provides the definition for regulated waste. Regulated waste is defined as waste that is both:

- *commercial and industrial waste or construction and demolition waste*, even if it has been immobilised or treated
- is, or contains a
 - a substance mentioned in schedule 1
 - a chemical compound containing an element mentioned in schedule 1
 - anything that contains residues of a substance mentioned in schedule 1

Regulated waste does not include acid sulfate soil or contaminated soil. These will generally still fall within the meaning of *construction and demolition waste*.

Other waste that is mixed with regulated waste before being delivered to a levyable waste disposal site, is also taken to be ***regulated waste***.

7 What is regulated waste-high hazard

Clause 7 defines the type of waste that is classified as regulated waste-high hazard.

It is important to be able to identify regulated waste as *low hazard*, *high hazard* or *other* in order to assign the correct levy rate to the waste. A higher levy rate applies to regulated waste-high hazard than the other types of regulated waste.

The first step in determining if a waste is *regulated waste-high hazard*, is to check if the waste is mentioned in schedule 1 and is therefore a regulated waste.

If it is a regulated waste, the type of regulated waste (*low hazard*, *high hazard* or *other*) will need to be determined.

If the waste is pre-classified in *Schedule 2 Pre-classified categories of regulated waste*, and it is pre-classified in that table as *regulated waste-high hazard*, then the high hazard levy rate will apply to the waste.

If the waste has not been pre-classified, *Schedule 3 Concentration Ranges* should be referred to determine the type of waste. If the waste is of a type or contains a constituent of a type mentioned in that schedule, and has a

concentration range or leachate concentration range higher than the maximum allowed for that type as per the schedule, then the waste type is *regulated waste-high hazard* and the levy for that waste type will apply.

To be regulated waste-high hazard, only one of the above concentration ranges need be greater than the maximum ranges provided in schedule 3.

8 What is regulated waste-low hazard

Clause 8 defines the type of waste that is classified as regulated waste-low hazard.

It is important to be able to identify regulated waste as *low hazard*, *high hazard* or *other* in order to assign the correct levy rate to the waste.

The first step in determining if a waste is regulated waste-low hazard, is to check if the waste is mentioned in schedule 1 and is therefore a regulated waste.

If it is a regulated waste, the type of regulated waste (*low hazard*, *high hazard* or *other*) will need to be determined.

If the waste is pre-classified in *Schedule 2 Pre-classified categories of regulated waste*, and it is pre-classified in that table as *regulated waste-low hazard*, then the low hazard levy rate will apply to the waste.

If the waste has not been pre-classified, Schedule 3 Concentration Ranges should be referred to determine the type of waste.

If the waste is of a type or contains a constituent of a type mentioned in that schedule, and these are *within* the concentration range or leachate concentration range provided in the schedule, then the waste type is *regulated waste-low hazard* and the levy for that waste type will apply.

To be regulated waste-low hazard, neither of the above values can be greater than the maximum ranges provided in schedule 3 and at least one must fall within those ranges.

9 What is regulated waste-other

Clause 9 defines the type of waste that is classified as *regulated waste-other*.

It is important to be able to identify regulated waste as *low hazard*, *high hazard* or *other* in order to assign the correct levy rate to the waste. A lower levy rate applies to *regulated waste-other* than the other types of regulated waste.

The first step in determining if a waste is *regulated waste-other*, is to check if the waste is mentioned in schedule 1 and is therefore a regulated waste.

If it is a regulated waste, the type of regulated waste (*low hazard, high hazard or other*) will need to be determined.

If the waste is pre-classified in *Schedule 2 Pre-classified categories of regulated waste*, and it is pre-classified in that table as *regulated waste-other*, then the levy rate for *regulated waste - other* will apply to the waste.

If the waste has not been pre-classified, *Schedule 3 Concentration Ranges* should be referred to determine the type of waste. If the waste is of a type or contains a constituent of a type mentioned in that schedule, and has a concentration range or leachate concentration range lower than the minimum allowed for that type as per the schedule, then the waste type is *regulated waste-other* and the levy for that waste type will apply.

To be *regulated waste-other*, both of the concentration ranges need be less than the minimum ranges provided in schedule 3.

10 Measuring leachate concentration

Clause 10 requires that the toxicity characteristic leaching procedure (TCLP) methodology be used to measure leachate concentration for clauses 7-9 and defines the TCLP methodology.

The leachate concentration values provided in the Schedule 3 have been determined using the TCLP methodology. Therefore, the TCLP methodology should be used to be comparable to the ranges provided in the schedule.

The TCLP methodology is in accordance with the methodology specified in the Department of Environment and Resource Managements landfill guidelines located at <<http://www.derm.qld.gov.au/register/p01312aa.pdf>>. This is a tried and tested methodology. It is the most widely accepted methodology and is stated in most development approval conditions.

Toxicity characteristic leaching procedure (TCLP) means the test described in the document *SW-846 Test Methods for Evaluation of Solid Wastes Physical/Chemical Methods* published by the United States Environmental Protection Authority, Revision 6, February 2007 or updated version thereof. The methodology is available online at <<http://www.epa.gov/epawaste/hazard/testmethods/index.htm>>

Part 3 Waste levy

Division 1 Prescribed exempt waste

11 Prescribed exempt waste-Act s26 definition exempt waste, paragraph (g)(i)

Clause 11 prescribes the waste that is exempt waste.

Clean earthen material

Clean earthen material, often known as 'clean fill', is prescribed as exempt if -

- it is separate from other waste when delivered to a levyable waste disposal site, and
- it is not also regulated waste in nature, and
- it is not acid sulfate soil, and
- it is not contaminated soil

Such material is commonly used for daily coverage of landfill cells at a waste disposal site. It is considered that this material is being used as part of the site operations rather than being disposed of. The exemption recognises this use without making the site operator incur a levy liability on it.

Waste delivered from SITA's Bedminster facility in Cairns

Until 30 June 2014, 63% of each load of residue waste delivered from SITA's Bedminster facility in Cairns to a levyable waste disposal site will be exempt waste.

Cairns Regional Council sends their municipal solid waste to the Bedminster facility, where it is combined with commercial waste and processed to produce a compostable material. This exemption recognises Cairns Regional Council's special circumstances in sending their waste to the only Alternative Waste Technology (AWT) in Queensland. The percentage of 63% was arrived at based on data provided by SITA in regards to the residue waste coming from the municipal solid waste stream and includes 1% for expected leakage of commercial and industrial waste into the municipal solid waste stream.

Division 2 Identifying exempt waste

12 Purpose of division 2

Clause 12 states the purpose of division 2 which is to prescribe the criteria the chief executive must consider in deciding certain applications for an exemption to the waste levy under section 31(3)(c) of the Act.

13 Contaminated soils

Clause 13 prescribes the criteria for assessing an application for an exemption in relation to contaminated soil.*

The chief executive must not grant an application relating to contaminated soils unless satisfied that the contaminated soil -

- Was contaminated before 1 January 1992; or
- Was waste removed from a landfill cell that is to be delivered to a levyable waste disposal site as part of a project declared to be a significant community project.

A significant community project *is* a project the chief executive considers has an aesthetic, conservation, cultural or economic benefit to a local or regional community or the State, including a project that serves an essential need of the community; or that significantly improves the community's access to services.

The chief executive also cannot grant an exemption if the soil is solely contaminated with petroleum hydrocarbons or only contains contaminants that are reasonably able to be treated by bioremediation and made suitable for any use.

The exemption criteria acknowledge that soils that are solely contaminated with petroleum hydrocarbons should be either treated and thus a levy exemption should not be given.

With regards to pre-1992 sites that are contaminated with other contaminants which may also include petroleum hydrocarbons, the chief executive will need to assess whether an exemption is appropriate. If the soil cannot be reasonably able to be bioremediated than an exemption may be available. An example of where it may not be reasonable to bioremediate the soil is where the costs of bioremediation together with levy costs would outweigh the environmental or public benefits.

*Note that an automatic exemption is available under the *Waste Reduction and Recycling Act 2011* for the disposal of contaminated soil by State or Local Government acting in an emergency clean up situation.

14 Waste to be used at a levyable waste disposal site

Clause 14 prescribes the criteria for granting an application relating to waste to be used at a levyable waste disposal site for certain site activities relating to the maintenance, operation and rehabilitation of the site - progressive capping, batter construction, final capping, profiling and site rehabilitation (a *site activity*). This does not include daily cover.

In deciding whether to grant an application relating to waste to be used as described above, the chief executive must consider:

- If there is a relevant environmental approval for the facility and it includes requirements about material for a site activity the chief executive must consider whether the material is needed to carry out the site activity.
- If there is not relevant environmental approval including such requirements, the chief executive must consider whether the material is required to carry out the activity in compliance with the requirements of the guideline ERA 60 Waste disposal - Landfill siting, design, operation and rehabilitation.

A relevant environmental approval means an approval granted under the *Environmental Protection Act 1994* for waste disposal at the facility.

Division 3 Rate of waste levy

15 Rate of waste levy for types of waste - Act s 38

Clause 15 states that the levy rates for the various types of waste are specified in schedules 4.

For example, the levy rates on delivery of construction and demolition and commercial and industrial waste is \$35 per tonne while municipal solid waste has a nil levy.

Clause 15 also clarifies that the levy that applies to green waste that is also municipal solid waste (i.e. hauled by a householder to the landfill site or

collected as part of a kerbside collection program) is the levy applicable to municipal solid waste. This means that if that waste goes straight to landfill the levy rate is nil. However, if it is subject to stockpiling or processing at the site, the residue is levied at \$35.

However, the levy that applies to green waste that is also commercial and industrial waste (e.g. taken to the landfill site by skip bin operator) is as follows:

- If it is clean green waste - the levy to green waste. This means that if the green waste is delivered to a separate green waste stockpile the levy is nil on delivery as it is expected that such waste will be recovered. However, the residue that is landfilled is then levied at \$35.
- If it is mixed with other waste (i.e. not a clean load) - the levy is applicable on delivery at the rate of commercial and industrial waste i.e. \$35.

Clause 15 also clarifies that where commercial and industrial or construction and demolition waste is also a regulated waste then the regulated waste levy rate will apply. Depending on the hazardous potential the levy will be \$35, or \$50 or \$150 per tonne.

The *Waste Reduction and Recycling Regulation 2011* will be amended annually to adjust all levy rates according to the Consumer Price Index.

Division 4 Waste levy zone

16 Local Government areas comprising the waste levy zone - Act, s40

Clause 16 identifies the waste levy zone. Any waste disposed of to a landfill in the levy zone may be subject to the levy regardless of where it has been generated. However, levy also applies to waste generated within the levy zone but disposed of outside the levy zone to avoid waste being diverted to avoid levy payment.

The only time the levy does not apply is if the waste is both generated and disposed of outside the levy zone.

The waste levy zone comprises the local government area of each local government mentioned in schedule 5.

Division 5 Calculating waste levy

17 Purpose of sdiv 1

Clause 17 states the purpose of subdivision 5, which is to prescribe how the amount of waste levy is calculated.

18 How to calculate the amount of waste levy payable to the State

Clause 18 provides the formula for calculating the amount of waste levy payable to the State monthly. This calculation uses the formulas in clauses 19 -34.

19 How to calculate the amount of waste levy on levyable waste delivered to a levyable waste disposal site [WLd]

Clause 19 provides the formula for calculating the total amount of waste levy on levyable waste delivered to the site during a month.

20 How to calculate the amount of waste levy on stockpiled waste that is disposed of as landfill [WLs]

Clause 20 provides the formula for calculating the amount of waste levy on stockpiled waste that is disposed of as landfill

Separately stockpiled green waste, disaster management waste or clean earthen material is not to be included in the calculation unless it has been mixed with other stockpiled waste.

21 How to calculate the waste levy on separately stockpiled green waste that is disposed of as landfill [WLg]

Clause 21 provides the formula for calculating the amount of waste levy on separately stockpiled green waste that is disposed of as landfill in a month.

Subdivision 2 Resource recovery deduction

22 Purpose of sdiv 2

Clause 22 provides that the purpose of subdivision 2 is to prescribe the requirements for calculating the resource recovery deduction under section 39(2) of the Act.

23 How to calculate the resource recovery deduction [RRD\$]

Clause 23 provides the formula for calculating the amount of the resource recovery deduction for a levyable waste disposal site for a month.

Separately stockpiled green waste, disaster management waste or clean earthen material is not to be included in the calculation unless it has been mixed with other stockpiled waste.

Note- For the exports of stockpiled waste that are eligible for a resource recovery deduction, see section 38(1) of the Act.

24 Capping the resource recovery deduction

Clause 24 provides for capping of the amount of the resource recovery deduction calculated under section 23.

Subdivision 3 Operational use discount

25 Purpose of sdiv 3

Clause 25 provides that the purpose of subdivision 3 is to prescribe the requirements for calculating the operational use discount.

26 How to calculate the operational use discount [OUD\$]

Clause 26 provides the formula for calculating the amount of the operational use discount for a levyable waste disposal site for a month.

27 Capping the operational use discount

Clause 27 provides for capping of the amount of the operational use discount calculated under section 26.

Subdivision 4 Other calculations

28 How to calculate the overall average value of the general stockpile of waste

Clause 28 provides the formula for calculating the overall average value of the general stockpile of waste at a levyable waste disposal site.

General stockpile of waste means a stockpile of waste at a levyable waste disposal site other than any of the following that is stockpiled separately to other types of waste-

- green waste
- disaster management waste
- clean earthen material

29 How to calculate the average value, per tonne, of stockpiled waste [A\$]

Clause 29 provides the formula for calculating the average value, per tonne, of stockpiled waste for a levyable waste disposal site for a month.

Separately stockpiled green waste, disaster management waste or clean earthen material is not to be included in the calculation unless it has been mixed with other stockpiled waste.

30 How to calculate the quantity of stockpiled waste remaining at the end of a month [TQt]

Clause 30 provides the formula for calculating the quantity, in tonnes, of stockpiled waste remaining at a levyable waste disposal site at the end of a month (the *current month*).

If a quantity calculated is less than 0, the quantity is taken to equal 0. Separately stockpiled green waste, disaster management waste or clean earthen material is not to be included in the calculation unless mixed with other stockpiled waste.

31 How to calculate the total value of stockpiled waste remaining at the end of a month [T\$]

Clause 31 provides the formula for calculating the total value (\$) of all stockpiled waste remaining at the levyable waste disposal site at the end of a month (the current month).

If a value calculated is less than 0, the value is taken to equal 0. Separately stockpiled green waste, disaster management waste or clean earthen material is not to be included the calculation unless it has been mixed with other stockpiled waste.

32 How to calculate the total amount of waste levy on stockpiled waste [T\$S]

Clause 32 provides the formula for calculating the total amount of waste levy on all levyable waste that is stockpiled at the levyable waste disposal site during a month.

The waste levy on a type of waste that is stockpiled at a levyable waste disposal site is the waste levy that would have applied to the type of waste if the waste had been disposed of as landfill on delivery.

Separately stockpiled green waste, disaster management waste or clean earthen material is not to be included the calculation unless it has been mixed with other stockpiled waste.

33 How to calculate the total amount of the average waste levy on stockpiled waste that was disposed of as landfill [T\$d]

Clause 33 provides the formula for calculating the total amount of the average waste levy on stockpiled waste disposed of as landfill for a month.

Separately stockpiled green waste, disaster management waste or clean earthen material is not to be included in a calculation unless it has been mixed with other stockpiled waste.

34 How to calculate the non-deductible resource recovery [NoRRD\$]

Clause 34 provides the formula for calculating the amount of the non-deductible resource recovery for a levyable waste disposal site for a month.

Separately stockpiled green waste, disaster management waste or clean earthen material is not to be included in the calculation unless it has been mixed with other stockpiled waste.

Division 6 Movement of waste

35 Prescribed movement of waste - Act, s44

Clause 35 prescribes waste movements that must be measured and recorded.

Section 44 of the Act requires that if a weighbridge has been installed the operator of the site must use the weighbridge to measure and record certain movement of waste including movement prescribed under a Regulation. Where a weighbridge is not in place the movement of waste must be measured and recorded by using the weight measurement criteria as required in section 45 of the Act.

Clause 35 requires waste disposal site operators to measure and record the following-

- waste moved from the general stockpile for an authorised on-site use, e.g. for daily cover; progressive capping; road construction; etc.
- waste moved from landfill to the general stockpile e.g. steel that is pulled from the cell and moved into a stockpile on the site with the intent of sale.

General stockpile include all stockpiles on site other than separate stockpiles of green waste, clean earthen materials and disaster management waste.

Division 7 Measurement of waste other than by weighbridge

Clause 36 refers to schedule 6 where the weight measurement criteria are described. These criteria are used by levyable waste disposal sites where a weighbridge is not required to be used to measure the waste.

The weight measurement criteria are used to assess the weight of the waste in tonnes by using conversion factors based on the type of vehicle carrying the waste.

Division 8 Resource recovery areas

37 Prescribed activities for resource recovery areas - Act, s 61

The Act enables the operator of a levyable waste disposal site to establish a resource recovery area. Waste delivered to this site has no levy liability until it is disposed of to landfill, including residue wastes from recycling activities. The operator can only establish a resource recovery area under certain circumstances, including if it is proposed to carry out certain activities within the area. The Act provides that such activities may be prescribed under a Regulation.

Clause 37 prescribes the following activities that may be carried out in a resource recovery area -

- operating a tip shop - which means a store for the sale of used, recycled, or second hand goods which have been diverted from disposal in a landfill
- a recycling activity
- treating contaminated soil.

Note that if any of the activities above require a licence, development approval or similar approval to be undertaken such approvals still need to be obtained under their respective legislation. For example, an ERA under the *Environmental Protection Act 1994*.

38 Requirement for resource recovery areas - Act, s61

Clause 38 provides for the total area size for a resource recovery area at the waste facility. It must not be more than the smaller of the following: 50 000 square metres or 25% of the total waste facility.

Part 4 Strategic planning for waste reduction and recycling

39 Prescribed planning entity-Act s 139

Section 139(2) of the Act provides that a *planning entity* may be identified by being prescribed under the regulation. Prescribed planning entities have responsibilities under the Act, including the preparation, adoption and implementation of a waste reduction and recycling plan. This requirement has been transferred and adapted from the *Environmental Protection Act 1994* framework.

Clause 39 prescribes the following as planning entities:

- blood banks
- hospitals
- laboratories that generate clinical waste
- multi-service medical clinics
- veterinary hospitals

This clause also provides definitions that are relevant for the clause.

Part 5 Reporting about waste management

40 Prescribed sector of reporting entities-Act, s 150

Section 150 of the Act provides for *reporting entities* that have responsibilities under the Act and must give the chief executive a report about the entities' receiving, sorting, recycling, treatment or disposal of waste in the financial year.

Section 150(2) of the Act enables the regulation to prescribe entities that are automatically captured by the requirement to report. *Clause 40* identifies the following reporting entities for section 150(2) of the Act-

- entities carrying out a recycling activity during the financial year;
- entities required, during the financial year, to hold a registration certificate 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
- waste facilities required, during the financial year, to hold a registration certificate under the *Environmental Protection Act 1994* for the disposal of waste at the facility.

41 Prescribed threshold for reporting entities-Act, s 150

Section 150(4) of the Act provides that the chief executive may identify an entity as a reporting entity if the entity receives, sorts, recycles, treats or disposes of waste above a threshold prescribed under a regulation.

Entities above the prescribed threshold only become reporting entities where chief executive notifies such entities under section 151 about their status as reporting entities.

Clause 41 states that the prescribed thresholds are that an entity-

- received, sorted, recycled or treated at least 1000 tonnes of waste in the financial year immediately preceding the reporting year, or
- disposed of at least 1000 tonnes of waste in the financial year immediately preceding the reporting year.

The clause provides the definition for **reporting year** as 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 6 Miscellaneous

42 Prescribed persons-Act, 183

Clause 42 prescribes persons the chief executive may appoint as authorised persons. Authorised persons have certain powers under the Act, including the investigation, monitoring and enforcement of compliance.

The following persons are prescribed as persons who may be appointed as prescribed persons:

- a council employee under the *City of Brisbane Act 2010*
- a local government employee under the *Local Government Act 2009*

43 Prescribed commercial activity-Act, schedule, definition municipal solid waste

The Act provides for a regulation to prescribe commercial activities for the schedule, definition **municipal solid waste**, item 2, paragraph (c). Waste that is the subject of those activities is not *municipal solid waste*.

Clause 43 provides that the following are prescribed commercial activities-

- sorting of waste
- resource recovery from waste
- reprocessing and recycling operations.

Sorting is not a commercial activity if it is carried out for compacting or safety reasons e.g. pulling out a tyre or gas bottle from a transfer station pit. Bulking up waste is also not sorting.

44 Prescribed recycling activity-Act, schedule, definition recycling activity

The Act provides for a regulation to prescribe additional activities to be a *recycling activity*.

Clause 44 prescribes the following as a recycling activity-

- mulching green waste
- recycling construction and demolition waste
- recycling mattresses
- composting and soil conditioner manufacturing.

The clause provides definitions for *composting and soil conditioner manufacturing* and *organic waste* and others that are relevant for the clause.

45 Fees

Clause 45 states that the fees payable under the Act are provided in schedule 7.

Fees for applications under the Act have been set on a full or partial recovery cost basis, based on calculations of estimated administration and assessment costs. In some instances the fee has been set at nil, for example where made in conjunction with an application requiring the same assessment that already has an accompanying fee required under another Act.

The majority of applications have not previously existed under any legislation, with the exception of applications relating to an approval for a resource for beneficial use. These were previously made under the *Environmental Protection Act 1994*. The fees for these applications were previously calculated based on a full cost recovery basis, according to actual time spent on assessing individual applications. For new beneficial use approvals or amendment applications for existing approvals, a minimum fee of \$375.40 with additional time spent on assessing applications charged at \$187.50 per hour applied. For transfer approval the applications fee was set at \$103.00. This transfer fee has remained the same under the new fee structure.

To provide a more transparent and cost effective fee structure, the beneficial use approval or amendment application fees are prescribed at a set price under the *Waste Reduction and Recycling Regulation 2011*.

The *Waste Reduction and Recycling Regulation 2011* will be amended annually to adjust the fees according to the Consumer Price Index.

Part 7 Transitional matters

46 Residue waste discounted levy rate criteria - Act s 280

Recycling activities produce an amount of residue waste which is disposed of to landfill after the recoverable components have been removed. The amount of residue waste is dependent on the efficiency of the recycling activity. The more efficient the activity is, the lower the amount of residue waste.

Recycling activity is a commercial activity so the levy on residue waste is generally \$35.

Transitional arrangements allow for an eligible organisation undertaking a recycling activity to apply for a discounted rate of waste levy. Applications can only be granted for a year and the ability to apply for such discount ceases on 30 June 2014. This transitional provision is to alleviate levy impacts while encouraging improved efficiency measures.

Section 280 in the Act provides that in deciding whether to grant an application for a levy discount, the chief executive must consider a number of criteria, including any criteria prescribed under regulation-the *residue waste discounted levy rate criteria*.

Clause 46 prescribes the *residue waste discounted levy rate criteria* for section 280(3)(c) of the Act-

- an applicant's performance history for carrying out a recycling activity compared to industry benchmarks or best practice guidelines for the recycling activity
- an applicant's performance history for carrying out a recycling activity compared to the residue waste efficiency threshold for the recycling activity stated in clause 47, and
- any strategies or practices to improve the efficiency of the applicant's recycling activities proposed by the applicant in the applicant's application.

An application is not be granted if the applicant's performance history for carrying out a recycling activity does not match or better the residue waste efficiency threshold for the recycling activity stated in clause 47.

However, an application may be granted if, after consideration of any strategies or practices mentioned in the application, the chief executive is satisfied the applicant is capable of matching the residue waste efficiency threshold for the recycling activity for the year that the discount would apply.

47 Residue waste efficiency threshold-Act s 280

Clause 47 provides the residue waste efficiency threshold for recycling activities. The threshold is the percentage of the feedstock (*starting waste*) waste input into a recycling activity that is residue waste after the recoverable components have been removed.

For example: if the residue waste efficiency threshold is 20%, the residue waste efficiency threshold will be met if from 100 tonnes of feedstock input into a recycling activity the residue waste is no greater than 20 tonnes. Or in other words, the recycling activity needs to have recovered 80% of the feedstock.

The residue waste efficiency thresholds are provided in Schedule 8. For each recycling activity stated in column 1, the residue waste efficiency threshold is given in column 2.

48 Discounted rate of waste levy for residue waste-Act, s 281

Clause 48 states that for section 281(1)(b) of the Act, the discounted rate of waste levy that is to apply to residue waste is \$17.50 per tonne.

The *Waste Reduction and Recycling Regulation 2011* will be amended annually to adjust all levy rates including the discount rate of waste levy for residue waste according to the Consumer Price Index.

Part 8 Consequential amendments

49 Regulations amended

Clause 49 provides for schedule 9 to amend the *Waste Reduction and Recycling Regulation 2011*, the *Environmental Protection (Waste*

Management) Regulation 2000 and the *Environmental Protection Regulation 2008*.

The schedule includes consequential amendments to sections of the *Environmental Protection (Waste Management) Regulation 2000* and the *Environmental Protection Regulations 2008* so they no longer make reference to omitted provisions that have been transferred to the Act or the Regulation.

Provisions are also being transferred into the *Environmental Protection Regulations 2008*, from the *Environmental Protection (Waste Management) Policy 2000* which is being repealed by section 300 of the Act.

This regulation amends itself in order to remove the consequential amendments once they have taken effect. Part 8 (Consequential amendments) will be omitted. Schedule 9 will be omitted and schedule 10 will be renumbered as schedule 9. References to schedule 10 throughout this regulation will be replaced with schedule 9.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Environment and Resource Management.

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