

Waste Reduction and Recycling and Other Legislation Amendment Regulation 2018

Explanatory notes for SL 2018 No. 84

made under the

Environmental Protection Act 1994
Waste Reduction and Recycling Act 2011

General Outline

Short title

Waste Reduction and Recycling and Other Legislation Amendment Regulation 2018
(amendment regulation)

Authorising law

Section 580 of the *Environmental Protection Act 1994*
Section 271 of the *Waste Reduction and Recycling Act 2011*

Policy objectives and the reasons for them

The objectives of this amendment regulation are to:

1. amend the *Environmental Protection Regulation 2008* so that provisions in chapter 5A relating to local government administration of waste management do not expire on 1 July 2018; and
2. amend the *Waste Reduction and Recycling Regulation 2011* so that provisions in Part 2A relating to local government administration of waste management activities do not expire on 1 July 2018.

The State currently regulates local government waste management under chapter 5A of the *Environmental Protection Regulation 2008* and part 2A of the *Waste Reduction and Recycling Regulation 2011*. Although the provisions are in these State regulations, they are currently devolved to local governments. Local governments are also able to make local laws to manage waste in their local government area and these laws may replicate the current State regulations.

The provisions were incorporated into the *Environmental Protection Regulation 2008* and the *Waste Reduction and Recycling Regulation 2011* due to the expiry of the *Environmental Protection (Waste Management) Regulation 2000* in 2014. These provisions only continued in State legislation as a transitional measure to allow for local government waste management activities to continue while consultation could be undertaken with key stakeholders about alternative arrangements. These provisions were due to expire on 1 September 2016 and were extended by the *Waste Reduction and Other Legislation Amendment Regulation (No.1) 2016* to expire on 1 July 2017. In June 2017, a negotiated agreement was reached with key stakeholders for a further extension of 12 months. The provisions were extended until 1 July 2018 by the *Waste Reduction and Recycling and Other Legislation Amendment Regulation (No.1) 2017*.

In 2017, the former Department of Environment and Heritage Protection engaged Queensland Treasury Corporation (QTC) to undertake a review of these provisions and provide advice on the options for a resolution to issues raised by stakeholders. Key stakeholders were consulted during the review generally about the consequences of expiry of the provisions. As a result of the independent review, the expiry dates will be removed to provide for the State provisions to continue while the recommendations of the report are implemented to address the issues raised by stakeholders.

Achievement of policy objectives

The amendment regulation will achieve its objectives by:

- amending existing provisions in chapter 5A of the *Environmental Protection Regulation 2008* to remove expiry dates so that chapter 5A continues for an indefinite period; and
- amending existing provisions in part 2A of the *Waste Reduction and Recycling Regulation 2011* to remove expiry dates so that part 2A continues for an indefinite period.

This is reasonable and appropriate because without removal of the expiry date of 1 July 2018, all of the provisions about local government administration of waste management will expire.

Consistency with policy objectives of authorising law

To the extent that the amendment regulation amends the *Environmental Protection Regulation 2008*, the amendment regulation is consistent with the main objectives of the *Environmental Protection Act 1994*, which is, to protect Queensland's environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends (ecologically sustainable development).

To the extent that the amendment regulation amends the *Waste Reduction and Recycling Regulation 2011*, the amendment regulation is consistent with the main objectives of the *Waste Reduction and Recycling Act 2011*, that is, to:

- promote waste avoidance and reduction, and resource recovery and efficiency actions;
- reduce the consumption of natural resources and minimise the disposal of waste by encouraging waste avoidance and the recovery, re-use and recycling of waste;

- to minimise the overall impact of waste generation and disposal;
- to ensure a shared responsibility between government, business and industry and the community in waste management and resource recovery; and
- to support and implement national frameworks, objectives and priorities for waste management and resource recovery.

Inconsistency with policy objectives of other legislation

The amendment regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

An alternative approach to achieving the policy objective would be to extend the expiry date for a further period. Given the complexity of the issues, it is difficult to estimate the timeframe required to implement a resolution to stakeholder's issues with the existing provisions. The removal of the expiry dates, rather than extending the expiry dates is intended to provide greater certainty to stakeholders about the continuation of the provisions while the recommendations of the QTC report are implemented to address the issues raised by stakeholders.

Benefits and costs of implementation

These amendments will not add to the administrative cost of the Queensland Government. The implementation of these provisions is already devolved to local governments.

Local governments can continue to undertake waste management activities that are appropriate for the local government area into the future with certainty that the provisions will not expire.

There are no additional costs associated with removing the expiry of these provisions.

Consistency with fundamental legislative principles

The *Legislative Standards Act 1992* was considered during the drafting of this regulation and the amendment regulation is consistent with fundamental legislative principles.

Consultation

Local governments and the waste industry have been consulted during the review undertaken by QTC into the local government waste management provisions. They have been consulted generally about the consequences of the expiry of the provisions.

Local government peak bodies are supportive of the continuation of the provisions. The waste industry stakeholders are generally supportive of the continuation of the provisions while solutions to issues raised by stakeholders are implemented.

In accordance with *The Queensland Government Guide to Better Regulation* the Office of Best Practice Regulation (OBPR) was consulted in relation to the amendments. OBPR recommended that the Department of Environment and Science (the department) undertake consultation and a regulatory review process prior to removing the expiry dates. OBPR advised that the release of the QTC report for consultation could be used for the purpose of justifying a retention of the current regulatory arrangements in the short-term.

The department will continue to work with OBPR in relation to undertaking a full review of proposals to address the recommendations of the QTC report that will impact longer term arrangements under these regulations.