

# Waste Reduction and Recycling Amendment Regulation 2023

Explanatory notes for SL 2023 No. 188

made under the

*Waste Reduction and Recycling Act 2011*

## General Outline

### Short title

*Waste Reduction and Recycling Amendment Regulation 2023*

### Authorising law

Sections 26 and 271 of the *Waste Reduction and Recycling Act 2011*.

### Policy objectives and the reasons for them

The policy objectives of the legislation are to ensure continuation of cost-effective and efficient recovery of recyclables collected predominantly through household and commercial kerbside services, to provide certainty and stability and a level playing field for operators of Material Recovery Facilities and their customers and to optimise the recovery of recyclable material. The legislation will also provide sufficient time for waste generators generating waste outside the non-levy zone (with the exception of the regional levy zone) and disposing of waste into the non-levy zone to adjust to the application of the metropolitan levy rate on this waste.

There are currently nine Material Recovery Facilities providing recyclables sorting services to around 36 local governments in metropolitan and regional Queensland. Continuation of a cost-effective service is critical to helping meet the household and commercial and industrial recycling targets established in the Waste Management and Resource Recovery Strategy. Stability and certainty are necessary for the market in order to maintain a consistent gate fee and price for the services.

The inputs into a Material Recovery Facility are largely out of the control of the operator as it relies on people knowing what to put in the bin and doing the right thing. The more contamination (non-recyclable material) that is received at the facility the greater the sorting costs as more equipment is needed in order to maximise product quality and reduce waste requiring disposal.

In recognition of the need for facilities to be upgraded and that new facilities may be required, the legislation applies the residue waste exemption to all Material Recovery Facilities and similar facilities, including glass beneficiation plants. Upgraded and new Material Recovery Facilities require a period of time to come up to optimal operating efficiency and the non-inclusion of these facilities under an exemption framework may see a delay in upgrades if additional costs are incurred due to the disposal of increased residue waste for that period.

Under previous arrangements the exemption had only applied to Material Recovery Facilities that were in operation prior to 1 July 2019. The exemption was provided in recognition of the fact that Material Recovery Facility operators do not control the quality and type of material that is placed in the yellow-lid bin. This means that a proportion of the material received for sorting is non-recyclable and must be disposed of.

Expanding the exemption framework to include new and upgraded facilities provides a level playing field for all operators and recognises the challenges that Material Recovery Facility operators face when receiving kerbside collected material.

## **Achievement of policy objectives**

Providing a permanent legislative arrangement for residue waste from Material Recovery Facilities and glass beneficiation plants to be exempt waste achieves the policy objectives.

The provision of a transition date to 30 June 2024 achieves the policy objective of providing an adjustment period for the application of the levy to waste that is generated outside the non-levy zone and disposed of into the non-levy zone.

## **Consistency with policy objectives of authorising law**

The amendments are consistent with the authorising law as the *Waste Reduction and Recycling Act 2011* provides for a waste to be prescribed in regulation as exempt waste. One of the objects of the Act is to 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. The residue waste levy exemption achieves this by incentivising investment in more efficient facilities through upgrades and new Material Recovery Facilities, as well as, for existing Material Recovery Facilities, providing a driver to produce a cleaner end-product rather than having a proportion of non-recyclable material going through to the saleable product.

## **Inconsistency with policy objectives of other legislation**

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

## Alternative ways of achieving policy objectives

The policy objectives could be achieved under the current arrangements. Residue waste from existing Material Recovery Facilities is currently exempt from the levy under section 35 of the *Waste Reduction and Recycling Act 2011*. This section allows the chief executive to make a decision about a waste being an exempt waste where extraordinary circumstances apply and publish this declaration.

Continuing this arrangement would allow achievement of the policy objectives, with the declaration potentially able to accommodate new facilities to provide a level playing field across new and existing facilities.

However, it does not provide stability and certainty for operators and local governments, nor would long term use of this provision satisfy the decision criteria for extraordinary circumstances.

A permanent legislated exemption is the only option that provides both certainty and a level playing field to local government and material recovery and glass beneficiation facility operators in the immediate and long term, while delivering on the policy objectives. This is critical to ensure the ongoing investment in new and upgraded recovery infrastructure.

## Benefits and costs of implementation

The benefits of implementation include the ability for local governments to continue to provide a cost-effective kerbside collection service for recyclable material as the Material Recovery Facility operator does not have an additional cost associated with disposal of residue waste from the sorting process.

Providing a residue waste exemption also helps create a better-quality output product. While Material Recovery Facility operators are motivated to produce a high-quality output as it has commodity value, this does become a trade-off with disposal costs. Applying the levy, currently \$105.00 per tonne in the metropolitan levy zone and \$91.00 per tonne in the regional levy zone, may see an increase in non-recyclable material ending up in the sorted commodities.

Levy revenue is already foregone under the current arrangements, and this would continue under the permanent legislated arrangements. It is anticipated that there are likely to be four or five new Material Recovery Facilities built over the next five to ten years and two or three significant upgrades to existing facilities. This would see a slight increase in additional foregone levy revenue. However, this foregone revenue would also be the same under application of an expanded s35 declaration.

There are no implementation costs for operators of Material Recovery Facilities or glass beneficiation plants.

In accordance with *The Queensland Better Regulation Policy*, an Impact Analysis Statement was prepared in relation to the regulatory proposal. The proposal will not add to the burden of regulation and is unlikely to result in significant adverse impacts. No further regulatory impact analysis is required.

## Consistency with fundamental legislative principles

The legislation is consistent with fundamental legislative principles.

Section 26 of the *Waste Reduction and Recycling Act 2011* provides that a waste can be prescribed in regulation as exempt waste.

## Consultation

Targeted stakeholder engagement with Material Recovery Facility operators, local governments and peak bodies for the local government and resource recovery sector was undertaken in August 2023.

Several options, including no exemption, continuation of arrangements for existing operators and a permanent legislated exemption for either existing operators or all operators and expanded to include similar facilities such as glass beneficiation plants, were discussed at an initial stakeholder information session held in conjunction with a Local Government Waste Management Action Committee meeting on 17 August 2023.

A follow-up local government session organised by the Local Government Association of Queensland was held on 29 August 2023 and a waste and resource recovery sector briefing was conducted on 12 September 2023.

Written feedback was also received from 15 local government and Material Recovery Facility operators and from two representative peak bodies. All submissions supported the provision of a permanent legislated residue waste exemption that applies to new, upgraded and existing operators to provide a level playing field for operators and long-term certainty for local governments and operators.

The Office of Best Practice Regulation was advised of the proposal.