



Queensland

Waste Reduction and Recycling (Waste Levy) Amendment Act 2019

Act No. 2 of 2019

An Act to amend the Waste Reduction and Recycling Act 2011 for particular purposes

[Assented to 21 February 2019]



Queensland

Waste Reduction and Recycling (Waste Levy) Amendment Act 2019

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The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Waste Reduction and Recycling (Waste Levy) Amendment Act 2019*.

2 Commencement

- (1) The following provisions commence on 1 June 2019—
 - section 3
 - section 19, to the extent it inserts new chapter 16, part 3 heading and sections 323 and 324.
- (2) Part 2, other than the provisions commenced under subsection (1), commences on 1 July 2019.

Part 2 Amendment of Waste Reduction and Recycling Act 2011

3 Act amended

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

4 Amendment of s 5 (Approach to achieving Act's objects)

- (1) Section 5—
insert—

[s 5]

(ba) price signalling, including through the introduction of a levy on waste delivered to a levyable waste disposal site;

(2) Section 5(1), ‘paragraphs (a) to (k)’—

omit, insert—

paragraphs (a) to (l)

(3) Section 5(ba) to (l)—

renumber as paragraphs (c) to (m).

5 Amendment of s 8A (Meaning of *waste disposal site*)

(1) Section 8A(b), ‘commonly’—

omit, insert—

sometimes

(2) Section 8A—

insert—

(2) However, a waste facility is not a *waste disposal site* only because a type of exempt waste prescribed by regulation for this definition is disposed of to landfill at the facility.

6 Replacement of ch 3 (Obligations of operator of waste disposal site)

Chapter 3—

omit, insert—

Chapter 3 Waste levy

Part 1 Preliminary

25 Main purpose

The main purpose of this chapter is to impose a levy on waste delivered to a levyable waste disposal site, and to allow for an exemption from the levy, or a discounted levy rate, for particular waste.

26 Definitions for chapter

In this chapter—

active landfill cell means that part of a landfill where waste is currently being disposed of.

bad debt credit see section 72K(1).

bad debt credit application means an application made under section 72L.

disaster see the *Disaster Management Act 2003*, section 13.

disaster management waste means waste generated by or because of a disaster that is or has been the subject of a declaration of a disaster situation under the *Disaster Management Act 2003*, but only within the limits, if any, declared by the chief executive, by publication on the department's website, for a particular disaster.

disaster situation see the *Disaster Management Act 2003*, schedule.

discounted rate, for the waste levy for residue waste, see section 44(4).

dredge spoil means natural material that has been removed from a waterway—

- (a) for the purpose of creating, maintaining or enlarging a channel, basin, port, berth or other similar thing; or
- (b) to undertake flood mitigation activities in naturally occurring surface waters.

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due date for payment, of a waste levy amount, means—

- (a) if an extension of time has been granted under section 72G, 72H or 72I for payment of the waste levy amount—the end of the extension; or
- (b) if there is a waste levy instalment agreement in place between the chief executive and the operator of a levyable waste disposal site who owes the amount—the day provided for in the agreement; or
- (c) otherwise—the end of the 28th day of the second month after the end of the levy period for the levyable waste disposal site of the operator who owes the amount.

exempt waste means—

- (a) disaster management waste; or
- (aa) serious local event waste; or
- (b) waste approved by the chief executive to be exempt waste for a particular exempt waste application; or
- (c) 1 of the following types of waste if lawfully managed and transported—
 - (i) waste that is any of the following and is not mixed with other types of waste—
 - (A) non-friable asbestos-containing material;
 - (B) waste that has asbestos-containing material bonded to it;
 - (C) any disposal items used during asbestos removal work including plastic sheeting and disposal tools;

- (ii) waste containing friable asbestos-containing material that has been removed by the holder of an asbestos removal licence issued under the *Work Health and Safety Act 2011* or under another licence or authority that authorises the removal of friable asbestos under a law of another State; or
- (d) dredge spoil if, for dredge spoil that is acid sulfate soil, the dredge spoil has been treated in accordance with best practice environmental management, within the meaning of the Environmental Protection Act, section 21, for the treatment and management of acid sulfate soils, as stated in a guideline prescribed by regulation; or
- (e) clean earth; or
- (f) waste collected by or for the State, a local government or a plantation licensee under the *Forestry Act 1959* to remediate the results of a person having done something that may be an offence under section 103 or 104; or
- (g) other waste—
 - (i) prescribed by regulation to be exempt waste; or
 - (ii) for which there is in force under this chapter a declaration by the chief executive that the waste is exempt waste.

exempt waste application see section 28(1).

feedstock, for a recycling activity, means the waste or other material that is to be used for the recycling activity.

friable asbestos-containing material means

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material containing asbestos that is in powder form or that can be crumbled, pulverized or reduced to powder by hand when dry.

lawfully managed and transported, for asbestos or waste containing asbestos, means managed and transported in compliance with the requirements applying, under the *Public Health Act 2005* and any other Act, to its management and transport.

levyable waste means waste, other than exempt waste, that is delivered to a levyable waste disposal site.

levyable waste disposal site—

- (a) means a waste disposal site, whether under the ownership or control of the State, a local government or otherwise; but
- (b) does not include a part of the waste disposal site that is a resource recovery area.

levy period, for a levyable waste disposal site, means—

- (a) for a section 325 small site, until 30 June 2021—either of the following periods—
 - (i) the period starting on 1 July 2019 and ending on 30 June 2020;
 - (ii) the period starting on 1 July 2020 and ending on 30 June 2021; or
- (b) otherwise—a month.

monitoring system see section 62.

non-friable asbestos-containing material means any manufactured material or thing that—

- (a) contains asbestos as part of its design; but
- (b) does not contain friable asbestos-containing material.

non-levy zone means the part of the State outside

the waste levy zone.

progressive capping means capping of active landfill cells at a waste disposal site on a cell-by-cell basis.

residue waste means the waste from a recycling activity that is commonly disposed of to landfill after the recoverable components have been removed from material.

Example of residue waste—

In metal recycling, the residue waste is the mainly non-metal component that results from recycling products such as motor vehicles, whitegoods, televisions and computers that have reached the end of their useful life.

residue waste discounting application see section 44(1).

resource recovery area see section 72R.

section 325 small site means a small site the operator of which, under section 325, is not required to comply with the requirements of section 61(2) to measure and record waste in compliance with the weight measurement criteria.

serious local event—

- 1 A *serious local event* is a serious disruption in a community, caused by the impact of an event, that requires a significant coordinated response by a local government and other entities to help the community recover from the disruption.
- 2 For paragraph 1—
 - (a) a serious disruption is—
 - (i) loss of human life, or illness or injury to humans; or
 - (ii) widespread or severe property loss or damage; or

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(iii) widespread or severe damage to the environment; and

(b) an event is an event under the *Disaster Management Act 2003*, section 16.

serious local event waste—

(a) means waste generated by activities in the immediate preparation for, or by or because of, a serious local event—

(i) but only within the limits, if any, declared by the chief executive under section 27B, for the serious local event; and

(ii) subject to the requirements of section 27A; but

(b) does not include waste generated by activities in general preparation for storms that are predicted or are likely to occur in a particular season each year or in anticipation of the next cyclone season.

small site means a levyable waste disposal site the operator of which is required to hold an environmental authority for the disposal of 2,000 tonnes or less of waste in a year at the site.

waste data return see section 72(1).

waste levy see section 36.

waste levy amount means an amount of waste levy.

waste levy instalment agreement see section 72B(1).

waste levy zone means the part of the State made up of the local government areas prescribed by regulation as provided for in this chapter.

weight measurement criteria means the weight measurement criteria prescribed by regulation.

Part 2 Identifying exempt waste

Division 1 Declaring limits for disaster management waste

27 Chief executive may declare limits for disaster management waste

- (1) The chief executive may, by publication on the department's website, declare limits applying to the status of waste as disaster management waste in relation to a particular disaster.

Examples of declared limits—

- a declaration that waste is disaster management waste only for a stated period
 - a declaration that waste is disaster management waste only if it is disposed of at a stated site
 - a declaration that, after a stated day, waste is disaster management waste only if delivered by stated entities
- (2) If the chief executive makes a declaration under subsection (1), the chief executive must take all reasonable steps to ensure that persons likely to be directly affected by the declaration are made aware of it, including, for example, by advertising in newspapers, on radio or on television.
- (3) A declaration made under subsection (1) is not invalid because of a failure to comply with subsection (2).

Division 1A Serious local event waste

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27A Notifying chief executive that waste is serious local event waste in particular circumstances

- (1) This section applies if the chief executive officer of a local government reasonably believes—
 - (a) there is or will be a serious local event in the local government's local government area; and
 - (b) an exemption from the levy on types of waste generated as a result of the serious local event and delivered to particular waste disposal sites should be allowed.
- (2) The chief executive officer must notify the chief executive as soon as practicable of the following matters in relation to waste that has been or will be generated as a result of the serious local event—
 - (a) the type of waste that is to be serious local event waste;
 - (b) the waste disposal sites at which the waste will be disposed of;
 - (c) the period for which the waste is to be serious local event waste.
- (3) The maximum period for subsection (2)(c) is the period starting 7 days immediately before the serious local event starts or is predicted to start and ending 28 days after the serious local event ends.
- (4) If the chief executive officer acts under subsection (2), and subject to section 27B, the type of waste stated in the notice is serious local event waste if—
 - (a) waste of that type is delivered to a stated waste disposal site during the stated period; and

-
- (b) the site operator of the waste disposal site does not charge for the delivery of the waste to the site.

27B Chief executive may declare limits for serious local event waste

- (1) The chief executive may, by publication on the department's website, declare limits applying to the status of waste as serious local event waste in relation to a particular serious local event.

Examples of declared limits—

- a declaration that waste is serious local event waste only for a stated period
 - a declaration that waste is serious local event waste only if it is disposed of at a stated site
 - a declaration that, after a stated day, waste is serious local event waste only if delivered by stated entities
- (2) If the chief executive makes a declaration under subsection (1), the chief executive must take all reasonable steps to ensure that persons likely to be directly affected by the declaration are made aware of it, including, for example, by advertising in newspapers, on radio or on television.
- (3) A declaration made under subsection (1) is not invalid merely because of a failure to comply with subsection (2).

Division 2 Approval of waste as exempt waste

28 Application for approval of waste as exempt waste

- (1) A person may apply to the chief executive for approval of waste, identified in the application (an *exempt waste application*), as exempt waste.

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- (2) However, the application may be about only 1 of the following types of waste—
 - (a) waste that has been donated to a charitable recycling entity but that can not practicably be re-used, recycled or sold;
 - (b) waste collected by members of the community during an organised event directed at remediating the results of a person having done something that may be an offence under section 103 or 104;
 - (c) earth contaminated with a hazardous contaminant from land recorded in the environmental management register or contaminated land register;
 - (d) waste to be used at a levyable waste disposal site for a purpose necessary for the operation of the site, including, for example, building infrastructure, temporary or daily covering, progressive capping, batter construction, final capping, profiling and site rehabilitation;
 - (e) biosecurity waste;
 - (f) serious local event waste.
- (3) Also, if the application is about biosecurity waste, the application may be made only by the chief executive of the department in which the *Biosecurity Act 2014* is administered.
- (3A) In addition, if the application is about serious local event waste, the application may be made only by the chief executive officer of the local government in whose local government area the serious local event waste was generated.
- (4) The application must—
 - (a) be in the approved form; and

-
- (b) be supported by enough information to allow the chief executive to decide the application; and
 - (c) be accompanied by the fee prescribed by regulation.

(5) In this section—

biosecurity waste means waste made up of matter that is subject to the operation of the *Biosecurity Act 2014*.

charitable recycling entity means an entity that—

- (a) operates on a not-for-profit basis; and
- (b) is registered as a charity under the *Collections Act 1966*; and
- (c) is a Deductible Gift Recipient for the purposes of laws administered by the Australian Taxation Office of the Commonwealth; and
- (d) actively and consistently operates a recycling or re-use program for—
 - (i) providing emergency assistance; or
 - (ii) otherwise supporting the charitable purposes of the entity.

29 Chief executive may require additional information or documents

- (1) Within 28 days after receiving an exempt waste application, the chief executive may, by notice given to the applicant, require the applicant to give the chief executive further reasonable information or documents about the application by a reasonable day stated in the notice.
- (2) The applicant may, before the stated day, agree with the chief executive about extending the time for providing the further information or

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documents.

- (3) The application is taken to be withdrawn if the applicant does not give the chief executive the further information or documents by the stated day or the end of any extension agreed between the chief executive and the applicant.

30 Deciding application

- (1) The chief executive must decide either to grant or to refuse an exempt waste application within 28 days after the later of the following days—
 - (a) the day the chief executive receives the application;
 - (b) if additional information or documents are requested under section 29—the day the chief executive receives the information or documents.
- (2) In deciding the application, the chief executive must consider—
 - (a) the objects of this Act; and
 - (b) the information outlined in the application.
- (3) However, the chief executive must refuse the application in the circumstances prescribed by regulation.
- (4) A failure to make a decision within the period required is taken to be a decision by the chief executive to refuse the application.

31 Grant of application

- (1) If the chief executive grants an exempt waste application, the chief executive must, within 5 business days after granting the application, give the applicant notice of the approval stating the following—

- (a) the application has been granted;
 - (b) the waste that has been approved as exempt waste;
 - (c) the period of the approval;
 - (d) any conditions imposed on the approval.
- (2) The period of the approval must not be more than 3 years.
 - (3) If the chief executive imposes a condition on the approval that is not the same, or substantially the same, as a condition agreed to or asked for by the applicant, the notice must also include or be accompanied by an information notice for the decision to impose the condition.

32 Refusal of application

If the chief executive refuses an exempt waste application, the chief executive must, within 5 business days after refusing the application, give the applicant an information notice for the decision.

33 Amendment of approval by agreement

- (1) The chief executive may amend an approval of waste as exempt waste by agreement between the chief executive and the holder of the approval.
- (2) If the holder of the approval asks for the amendment, the request must be accompanied by the fee prescribed by regulation.

34 Cancellation or amendment of approval by chief executive

- (1) The chief executive may cancel or amend an approval of waste as exempt waste if the chief executive considers there are reasonable grounds

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to cancel or amend it.

- (2) Without limiting subsection (1), the grounds for cancelling or amending the approval may include—
 - (a) that the chief executive is satisfied there is a reasonable suspicion that the granting of the approval was based on incorrect information; and
 - (b) that the chief executive is satisfied there is a reasonable suspicion that the approval was granted because of a false or misleading representation or declaration; and
 - (c) that the circumstances relevant to the granting of the approval have changed; and
 - (d) that the approval has not been complied with; and
 - (e) that it is desirable to cancel or amend the approval having regard to the objects of this Act.
- (3) Before cancelling or amending the approval (the *proposed action*), the chief executive must give the holder of the approval a notice stating the following—
 - (a) the proposed action;
 - (b) the grounds for taking the proposed action;
 - (c) the facts and circumstances that form the basis for the grounds;
 - (d) when the proposed action is intended to take effect;
 - (e) that the holder may make, within a stated period, written submissions to show why the proposed action should not be taken.
- (4) The stated period for submissions must not end earlier than 21 days after the holder of the

approval is given the notice.

- (5) The chief executive must consider all submissions made under subsection (3)(e) within the stated period.
- (6) If the chief executive decides to take the proposed action, the chief executive must, within 10 business days after making the decision, give the holder of the approval an information notice for the decision.
- (7) The decision takes effect when the holder is given the information notice.

Division 3 Declaring waste to be exempt waste

35 Chief executive may declare waste to be exempt waste in exceptional circumstances

- (1) This section applies if the chief executive is satisfied that exceptional circumstances apply for—
 - (a) particular waste or a type of waste; or
 - (b) the disposal of particular waste or a type of waste.
- (2) The chief executive may, by publication on the department's website, declare the waste to be exempt waste.
- (3) The chief executive may declare waste to be exempt waste subject to any limits or conditions included in the declaration of the waste as exempt waste.
- (4) A declaration of waste as exempt waste has effect subject to any limits or conditions included in the declaration.

Part 3 Operation of waste levy

36 Imposition of waste levy

The operator of a levyable waste disposal site is liable to pay the State a levy (the *waste levy*) on all levyable waste that is delivered to the site if—

- (a) the levyable waste disposal site is in the waste levy zone; or
- (b) the levyable waste disposal site is in the non-levy zone and the waste was generated outside the non-levy zone.

37 Calculating waste levy amount

- (1) The rate of the waste levy for each type of waste is the rate prescribed by regulation for that type.
- (2) The amount of waste levy imposed on waste is calculated in compliance with the requirements prescribed by regulation.

38 Offence to remove waste from levyable waste disposal site in particular circumstances

The operator of a levyable waste disposal site must not, for sale or other commercial gain, remove from the site waste for which the waste levy was, or is to be, paid to the State.

Maximum penalty—50 penalty units.

39 When residue waste taken to be generated outside the non-levy zone

If waste, used as feedstock for a recycling activity, was generated outside the non-levy zone, all of the residue waste generated by the recycling activity is taken, for this chapter, to be generated

outside the non-levy zone.

40 Mixing waste generated outside non-levy zone with waste generated in the non-levy zone

- (1) This section applies if waste generated outside the non-levy zone is mixed with waste generated in the non-levy zone before being delivered to a levyable waste disposal site in the non-levy zone.
- (2) The chief executive and the person who mixed the waste may agree in writing to a method of working out the waste that is taken to have been generated outside the non-levy zone and the total amount of that waste.

Example—

Fifty tonnes of waste generated outside the non-levy zone and 3,000 tonnes of waste generated in the non-levy zone are delivered to a resource recovery area in the non-levy zone in a month where they are mixed in a stockpile. Typically, 60% of waste delivered to the resource recovery area is delivered to the levyable waste disposal site. The chief executive and the operator of the relevant site agree that the first 30 tonnes of waste delivered from the resource recovery area to the levyable waste disposal site in the following month is taken to be waste generated outside the non-levy zone.

- (3) For this chapter—
 - (a) if there is an agreement under subsection (2)—the mixed waste is taken to be generated as decided under the agreement; or
 - (b) otherwise—all the mixed waste is taken to have been generated outside the non-levy zone from the time the waste was mixed.

41 Mixing types of waste that attract different rates of waste levy

- (1) This section applies if—

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- (a) different types of waste are mixed before being delivered to a levyable waste disposal site; and
 - (b) the different types of waste attract different rates of waste levy.
- (1A) For subsection (1)(b), the rate of the waste levy for exempt waste is taken to be zero.
- (2) All of the waste delivered is taken to attract the highest rate of waste levy that applies to any of the types of waste.

42 Mixing types of waste that attract same rate of waste levy

- (1) This section applies if—
- (a) different types of waste are mixed before being delivered to a levyable waste disposal site; and
 - (b) the different types of waste attract the same rate of waste levy.
- (1A) For subsection (1)(b), the rate of the waste levy for exempt waste is taken to be zero.
- (2) The operator of the site must, for sections 60 and 61, make a reasonable estimate of the amount of each type of waste included in the mixed waste using the information given to the operator under section 53.

43 Regulation identifying waste levy zone

- (1) A regulation may identify local government areas that make up the waste levy zone.
- (2) To remove any doubt, it is declared that it is not necessary for the waste levy zone to be made up of only local government areas that are contiguous with other local government areas.

Part 4 Discounting waste levy for residue waste

44 Application for discounted rate for waste levy for residue waste

- (1) A person who conducts a recycling activity prescribed by regulation may apply to the chief executive for approval of a discounted rate for the waste levy for residue waste identified in the application (a *residue waste discounting application*).
- (2) The application must—
 - (a) be in the approved form; and
 - (b) be supported by enough information to allow the chief executive to decide the application; and
 - (c) be accompanied by the fee prescribed by regulation.
- (3) The Minister may recommend to the Governor in Council the making of a regulation under subsection (1) about a particular recycling activity only if the Minister is satisfied that—
 - (a) giving a discount on the waste levy for residue waste from the activity will have a significant impact on the activity becoming established and sustained in Queensland; and
 - (b) the activity optimises the market and material value that can be derived from the waste used as feedstock for the activity.
- (4) The *discounted rate* for the waste levy for residue waste is the rate prescribed by regulation.

45 Chief executive may require additional information or documents

- (1) Within 28 days after receiving a residue waste discounting application, the chief executive may, by notice given to the applicant, require the applicant to give the chief executive further reasonable information or documents about the application by a reasonable day stated in the notice.
- (2) The applicant may, before the stated day, agree with the chief executive about extending the time for providing the further information or documents.
- (3) The application is taken to be withdrawn if the applicant does not give the chief executive the further information or documents by the stated day or the end of any extension agreed between the chief executive and the applicant.

46 Deciding application

- (1) The chief executive must decide either to grant or to refuse a residue waste discounting application within 28 days after the later of the following days—
 - (a) the day the chief executive receives the application;
 - (b) if additional information or documents are requested under section 45—the day the chief executive receives the information or documents.
- (2) In deciding the application, the chief executive must consider all of the following—
 - (a) the objects of this Act;
 - (b) the information included in the application;
 - (c) any criteria prescribed by regulation;

- (d) the applicant's history of compliance with this Act and the Environmental Protection Act, including whether the applicant holds any licences, environmental authorities or other approvals for conducting the recycling activity.
- (3) However, the chief executive must refuse the application in the circumstances prescribed by regulation.
- (4) A failure to make a decision within the period required is taken to be a decision by the chief executive to refuse the application.

47 Grant of application

- (1) If the chief executive grants a residue waste discounting application—
 - (a) in addition to any other conditions, the chief executive must impose a condition on the approval either—
 - (i) requiring the applicant to maintain as a minimum a stated recycling efficiency; or
 - (ii) limiting the amount of residue waste that will attract the discount rate in a period, including, for example, as a stated proportion of the amount of waste used as feedstock for the recycling activity in the period; and
 - (b) within 5 business days, the chief executive must give the applicant a notice stating the following—
 - (i) the application has been granted;
 - (ii) the discounted rate for the waste levy for the residue waste identified in the application;

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- (iii) the period of the approval;
 - (iv) any conditions imposed on the approval or prescribed by regulation.
- (2) The period of the approval must not—
- (a) be more than 3 years; or
 - (b) end after the residue waste discounting review date.
- (3) The notice must also include or be accompanied by an information notice for the decision to impose a condition on the approval unless the condition is the same, or substantially the same, as a condition agreed to or asked for by the applicant.
- (4) In addition to any conditions imposed by the chief executive, the approval is also subject to the conditions prescribed by regulation.
- (5) In this section—
- recycling efficiency*** means a percentage of the feedstock for a recycling activity that is not disposed of as landfill as a result of the activity.
- residue waste discounting review date*** means the day, as prescribed by regulation, for the review by the chief executive of the following—
- (a) the discounted rate for the waste levy for the residue waste;
 - (b) the recycling efficiency threshold for recycling activities;
 - (c) any other matters mentioned in this part as being prescribed by regulation.

48 Refusal of application

If the chief executive refuses a residue waste discounting application, the chief executive must,

within 5 business days after refusing the application, give the applicant an information notice for the decision.

49 Amendment of approval by agreement

- (1) The chief executive may amend an approval of a discounted rate for the waste levy for residue waste by agreement between the chief executive and the holder of the approval.
- (2) If the holder of the approval asks for the amendment, the request must be accompanied by the fee prescribed by regulation.

50 Cancellation or amendment of approval by chief executive

- (1) The chief executive may cancel or amend an approval of a discounted rate for the waste levy for residue waste if the chief executive considers there are reasonable grounds to cancel or amend it.
- (2) Without limiting subsection (1), the grounds for cancelling or amending the approval may include—
 - (a) that the chief executive is satisfied there is a reasonable suspicion that the holder of the approval has not implemented strategies or practices to progressively improve the efficiency of the holder's recycling activities during the period of the approval; and
 - (b) that the chief executive is satisfied there is a reasonable suspicion that the approval was granted because of a false or misleading representation or declaration; and
 - (c) that the circumstances relevant to the granting of the approval have changed; and

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- (d) that the conditions of the approval have not been complied with; and
 - (e) that it is desirable to cancel or amend the approval having regard to the objects of this Act.
- (3) Before cancelling or amending the approval (the *proposed action*) the chief executive must give the holder of the approval a notice stating the following—
- (a) the proposed action;
 - (b) the grounds for taking the proposed action;
 - (c) the facts and circumstances that form the basis for the grounds;
 - (d) when the proposed action is intended to take effect;
 - (e) that the holder of the approval may make, within a stated period, written submissions to show why the proposed action should not be taken.
- (4) The stated period for submissions must not end earlier than 21 days after the holder of the approval is given the notice.
- (5) The chief executive must consider all submissions made under subsection (3)(e) within the stated period.
- (6) If the chief executive decides to take the proposed action, the chief executive must, within 10 business days after making the decision, give the holder of the approval an information notice for the decision.
- (7) The decision takes effect when the holder is given the information notice.

51 Automatic cancellation of approval

An approval of a discounted rate for the waste levy for residue waste is automatically cancelled if the business of conducting the recycling activity relevant to the approval ceases to be owned by the entity granted the approval, including, for example, because the ownership of the business is transferred to another entity.

Part 5 Obligations relating to waste levy

Division 1 Obligations of person delivering waste

52 Persons delivering waste

A person is taken to deliver waste for this division if—

- (a) the person physically delivers the waste; or
- (b) the person engages or directs another person to physically deliver the waste on behalf of the person.

Example—

If an employee delivers waste to a levyable waste disposal site on behalf of the employee's employer, the obligations under this division apply to both the employee and the employer.

53 Person delivering waste to waste disposal site to give information

- (1) This section applies if a person delivers waste to a waste disposal site.
- (2) The person must give the operator of the waste

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disposal site the information (the *delivery information*) that the operator reasonably requires to identify—

- (a) how much of the waste is exempt waste and how much of it is levyable waste; and
- (b) for each type of waste required to be measured by the operator under section 59—how much waste there is; and
- (c) whether the waste was generated in the waste levy zone, the non-levy zone or outside Queensland.

Maximum penalty—300 penalty units.

- (3) Also, the delivery information must be given to the operator at least 24 hours before the waste is delivered if—
 - (a) the waste disposal site is in the non-levy zone; and
 - (b) the waste was generated outside the non-levy zone; and
 - (c) the waste is delivered in a vehicle with a GCM or GVM of more than 4.5 tonnes.
- (4) However, subsections (2) and (3) do not apply to the person if the person knows the operator already has the delivery information when the information would otherwise be required under subsection (2) or (3).

Example—

The person delivering the waste is acting on behalf of another person and knows that the other person has already given the delivery information.

- (5) If the operator of the waste disposal site asks the person to give the operator the delivery information in the approved form, the person must comply with the request unless the person has a reasonable excuse.

Maximum penalty—300 penalty units.

- (6) If a person (the *principal*) engages or directs another person to deliver waste on behalf of the principal, it is a defence for subsection (2) or (5) for the principal to prove—
 - (a) the principal gave the other person appropriate instructions; and
 - (b) the principal used all reasonable precautions to ensure the other person complied with this section; and
 - (c) the principal could not by the exercise of reasonable diligence have stopped the commission of the offence.
- (7) Nothing in this section prevents the person from giving delivery information for more than 1 consignment of waste to be delivered to the waste disposal site.

54 Person delivering particular waste to give information

- (1) This section applies if—
 - (a) a person delivers waste to—
 - (i) a resource recovery and transfer facility in the non-levy zone; or
 - (ii) an entity conducting a recycling activity in the non-levy zone; and
 - (b) the waste was generated outside the non-levy zone; and
 - (c) the person delivers the waste in a vehicle with a GCM or GVM of more than 4.5 tonnes.
- (2) The person must, at least 24 hours before delivering the waste, give the operator of the resource recovery and transfer facility or entity

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the information (the *delivery information*) that the operator or entity reasonably requires to identify—

- (a) how much of the waste is exempt waste and how much of it is levyable waste; and
- (b) whether the waste was generated in the waste levy zone or outside Queensland.

Maximum penalty—300 penalty units.

- (3) However, subsection (2) does not apply to the person if the person knows the operator or entity already has the delivery information when it is required under that subsection.

Example—

The person delivering the waste to a resource recovery and transfer facility is the operator of the facility.

- (4) If the operator or entity asks the person to give the delivery information to the operator or entity in the approved form, the person must comply with the request unless the person has a reasonable excuse.

Maximum penalty—300 penalty units.

- (5) If a person (the *principal*) engages or directs another person to deliver waste on behalf of the principal, it is a defence for subsections (2) and (4) for the principal to prove—
 - (a) the principal gave the other person appropriate instructions; and
 - (b) the principal used all reasonable precautions to ensure the other person complied with this section; and
 - (c) the principal could not by the exercise of reasonable diligence have stopped the commission of the offence.
- (6) Nothing in this section prevents the person from

giving delivery information for more than 1 consignment of waste to be delivered to the resource recovery and transfer facility or to the entity.

(7) In this section—

resource recovery and transfer facility means a facility used for—

- (a) receiving, sorting, dismantling or baling waste; or
- (b) storing waste before moving it, from the site where the relevant activity is carried out, for recycling, processing, treatment or disposal.

55 Giving false or misleading information when delivering waste

(1) This section applies to a person delivering waste to—

- (a) a waste disposal site; or
- (b) a resource recovery and transfer facility in the non-levy zone; or
- (c) an entity conducting a recycling activity in the non-levy zone.

(2) The person must not give the operator or entity information about the waste that the person knows is false or misleading in a material particular.

Maximum penalty—300 penalty units.

(3) However, subsection (2) does not apply to the person if the person, when giving information in a document—

- (a) tells the operator or entity, to the best of the person's ability, how the document is false or misleading; and

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- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.
- (4) To remove any doubt, it is declared that subsection (2) applies to any information whether or not the person is required to give the information under section 53 or 54.
- (5) In this section—
operator means the operator of the waste disposal site or resource recovery and transfer facility.
resource recovery and transfer facility see section 54(7).

Division 2 Obligations of operators of waste disposal sites

Subdivision 1 Remitting waste levy

56 Remitting waste levy amount to the State

- (1) After receiving a summary data return from the operator of a levyable waste disposal site under section 72, the chief executive must give the operator an invoice stating the total amount of all waste levy amounts payable to the State by the operator for the levy period to which the return relates.
- (2) The operator must pay to the chief executive the total amount stated in the invoice by the due date for payment of the amount.
- (3) If a waste levy amount owing by an operator remains unpaid after its due date for payment, interest is payable on the unpaid amount for each day starting on the day after the due date for

payment and ending on the day the amount is actually paid.

- (4) The interest payable for a day as mentioned in subsection (3) is payable at the same rate as that applying to unpaid tax under the *Taxation Administration Act 2001*, section 54 and the *Taxation Administration Regulation 2012*, section 8.
- (5) Any waste levy amount payable by the operator of a levyable waste disposal site and remaining unpaid after its due date for payment, and any interest payable on the unpaid amount, may be recovered by the chief executive in a court with jurisdiction for the recovery of the amount as a debt payable by the operator to the State.
- (6) In this section—
summary data return see section 72(5).

Subdivision 2 Weighbridges

57 Weighbridge required

- (1) The operator of a waste disposal site in the waste levy zone must ensure a weighbridge is installed at the site from the beginning of the day on—
 - (a) if the operator is required to hold an environmental authority for the disposal of more than 10,000 tonnes of waste in a year at the site—1 July 2019; or
 - (b) if the operator is required to hold an environmental authority for the disposal of more than 5,000 tonnes, but not more than 10,000 tonnes, of waste in a year at the site—1 July 2021; or
 - (c) for any other operator—1 July 2024.

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Maximum penalty—300 penalty units.

- (2) If a waste disposal site is in the non-levy zone and receives during the period from 1 July 2019 to 31 December 2019 at least 300 tonnes of levyable waste generated outside the non-levy zone, the operator must ensure a weighbridge is installed at the site by 30 June 2020.

Maximum penalty—300 penalty units.

- (3) From 1 January 2020, if a waste disposal site is in the non-levy zone and receives at least 600 tonnes of levyable waste generated outside the non-levy zone during a year, the operator must ensure a weighbridge is installed at the site by 30 June in the following year.

Maximum penalty—300 penalty units.

58 Weighbridge requirements

- (1) This section applies to the operator of a waste disposal site at which a weighbridge is installed.
- (2) The operator must ensure that—
 - (a) the installation and operation of the weighbridge complies with the requirements prescribed by regulation for the weighbridge; and
 - (b) the weighbridge is kept in proper working order; and
 - (c) a copy of any record of certification for the weighbridge obtained in complying with the *National Measurement Act 1960* (Cwlth) is kept by the operator for 5 years after the certification.

Maximum penalty—200 penalty units.

- (3) If the weighbridge is out of operation, the operator must—

- (a) bring the weighbridge back into operation in the shortest practicable time; and
- (b) keep a written record detailing the period for which the weighbridge was out of operation and the reason it was out of operation.

Maximum penalty—200 penalty units.

- (4) Further, if the weighbridge is out of operation for a period of more than 24 hours, the operator must notify the chief executive of the following details within 3 days after the weighbridge first became out of operation, whether or not the weighbridge is still out of operation—
 - (a) the event that resulted in the weighbridge being out of operation;
 - (b) when the weighbridge first became out of operation;
 - (c) whether the weighbridge is still out of operation;
 - (d) if the weighbridge is still out of operation—what actions are being taken to bring the weighbridge back into operation.

Maximum penalty—200 penalty units.

- (5) If the weighbridge is still out of operation when the chief executive is notified under subsection (4), the operator must notify the chief executive of its being brought back into operation within 3 days after it starts operating again.

Maximum penalty—200 penalty units.

Subdivision 3 Measurement of waste

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59 When waste or other material must be measured

- (1) Waste, or an amount of other material that is more than 1 tonne, is required to be measured if—
 - (a) it is delivered to a levyable waste disposal site; or
 - (b) after being delivered to a levyable waste disposal site, it is moved to a place outside the site; or
 - (c) it is delivered in a vehicle with a GCM or GVM of more than 4.5 tonnes to a resource recovery area for a waste disposal site; or
 - (d) after being delivered to a resource recovery area for a waste disposal site—
 - (i) it is moved from the area to any other part of the site; or
 - (ii) it is moved to a place outside the site in a vehicle with a GCM or GVM of more than 4.5 tonnes.
- (2) Subsection (1) does not apply in relation to a levyable waste disposal site in the non-levy zone if the operator of the site—
 - (a) is required to hold an environmental authority for the disposal of not more than 5,000 tonnes of waste in a year at the site; and
 - (b) has taken all reasonable practical steps to ensure that levyable waste generated at a place outside the non-levy zone can not be lawfully delivered to the site.

60 Measurement of waste by weighbridge

- (1) This section applies if a weighbridge is installed at a waste disposal site, whether or not it is

required under section 57.

- (2) Each time waste or other material is required to be measured under section 59, the operator of the waste disposal site must ensure the weighbridge is used to measure and record the waste or other material.

Maximum penalty—300 penalty units.

Note—

See also section 42.

- (3) However, if it is not practicable to use the weighbridge to measure and record a particular amount of waste or other material, the operator may measure and record the waste in the way the operator and the chief executive agree to in writing.

Examples of something that is impracticable to weigh using a weighbridge—

- a large aircraft
- a large amount of waste that is taken to be delivered to the levyable part of a waste disposal site because of a cancellation or revocation of the declaration of the resource recovery area

- (4) The operator of the waste disposal site must ensure a record made under subsection (2) includes the information required by the chief executive.

Maximum penalty—300 penalty units.

- (5) The information required by the chief executive under subsection (4) must be published on the department's website and may include only—
- (a) the type of waste or other material; and
 - (b) whether the waste was generated in the waste levy zone, the non-levy zone or outside Queensland; and

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- (c) details of any exemption or discount applying to the waste; and
 - (d) the vehicle used to move the waste or other material.
- (6) If the weighbridge is not in operation when an amount of waste or other material is required to be measured under section 59, the operator of the waste disposal site must ensure the waste or other material is measured and recorded in compliance with the weight measurement criteria.

Maximum penalty—300 penalty units.

61 Measurement of waste other than by weighbridge

- (1) This section applies if a weighbridge is not installed at a waste disposal site.
- (2) Each time waste or other material is required to be measured under section 59, the operator of the waste disposal site must ensure the waste or other material is measured and recorded in compliance with the weight measurement criteria.

Maximum penalty—300 penalty units.

Note—

See also section 42.

- (3) The operator of the waste disposal site must ensure a record made under subsection (2) includes the information required by the chief executive.

Maximum penalty—300 penalty units.

- (4) The information required by the chief executive under subsection (3) must be published on the department's website and may include only—
 - (a) the type of waste or material; and

- (b) whether the waste was generated in the waste levy zone, the non-levy zone or outside Queensland; and
- (c) details of any exemption or discount applying to the waste; and
- (d) the vehicle used to move the waste or material.

Subdivision 4 Monitoring system

62 What is a *monitoring system*

A *monitoring system* is a closed-circuit television or another system the chief executive approves as a monitoring system by publishing details of the system on the department's website.

63 When monitoring system may be required by chief executive

- (1) This section applies if the chief executive reasonably believes the operator of a waste disposal site has not complied with the operator's obligation under this chapter to pay the waste levy or give the chief executive a waste data return for the site.
- (2) The chief executive may, by notice given to the operator, require the operator to install, maintain and operate a monitoring system at the site to record vehicle movements at the locations (each a *monitoring point*) stated in the notice.
- (3) The notice must also—
 - (a) state the day by which the monitoring system must be installed; and

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- (b) include or be accompanied by an information notice for the chief executive's decision to give the notice.
- (4) The operator must comply with the notice.
Maximum penalty—200 penalty units.

64 Requirements for monitoring system

- (1) This section applies to the operator of a waste disposal site given a notice under section 63 requiring the operator to install, maintain and operate a monitoring system.
- (2) The operator must comply with the obligations stated in subsections (3) and (5).
Maximum penalty—200 penalty units.
- (3) The operator must—
 - (a) display signage at the waste disposal site in a way that is likely to make persons arriving at the site aware that a monitoring system is installed at the site; and
 - (b) ensure the monitoring system—
 - (i) meets the minimum requirements prescribed by regulation for the system; and
 - (ii) is kept in proper working order; and
 - (iii) records vehicles at each monitoring point in a way that identifies the vehicles; and
Example of a way that identifies a vehicle—
an image of the vehicle's registration
 - (c) comply with any requirements prescribed by regulation about maintaining the monitoring system; and

- (d) store each recording in a secure place at the premises in compliance with any requirements prescribed by regulation for the storage; and
 - (e) keep each recording available for inspection by an authorised person at the premises until the recording is erased or destroyed in compliance with paragraph (f); and
 - (f) ensure a recording—
 - (i) is only erased or destroyed by the operator or a person approved by the operator; and
 - (ii) is not erased or destroyed earlier than 60 days after it was made; and
 - (iii) is erased or destroyed no later than 90 days after it was made.
- (4) However, if a copy of a recording is given to an authorised person, the recording—
- (a) need only be kept available for inspection by an authorised person until the authorised person has confirmed by written notice that the recording is viewable; and
 - (b) may be destroyed once the authorised person has confirmed by written notice that the recording is viewable.
- (5) The operator must not—
- (a) allow the monitoring system to be operated by anyone other than—
 - (i) the operator of the site; or
 - (ii) a person approved by the operator; or
 - (b) allow a recording to be viewed by anyone other than an authorised person or a person mentioned in paragraph (a).

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(6) In this section—

monitoring point means a monitoring point under section 63(2).

recording means a video recording made by the monitoring system.

65 Requirements if monitoring system stops operating

- (1) This section applies to the operator of a waste disposal site given a notice under section 63 requiring the operator to install, maintain and operate a monitoring system.
- (2) If the monitoring system stops recording, the operator must—
 - (a) bring the system back into operation in the shortest practicable time; and
 - (b) keep a written record detailing the period within which the system was not recording and the reason it was not recording.

Maximum penalty—100 penalty units.

- (3) Further, if any event results in the monitoring system not recording for any period of more than 24 hours, the operator must notify the chief executive of the following details within 3 days after the system stops recording, whether or not the system is still not recording—
 - (a) the event that resulted in the monitoring system not recording;
 - (b) when the monitoring system stopped recording;
 - (c) whether the monitoring system is still not recording;
 - (d) if the monitoring system is still not recording—what actions are being taken to

bring the monitoring system back into operation.

Maximum penalty—100 penalty units.

- (4) If the monitoring system is still not recording when the chief executive is notified under subsection (3) but later starts recording again, the operator must notify the chief executive that it is recording again within 3 days after it starts recording.

Maximum penalty—100 penalty units.

66 Operators required to give chief executive plan for monitoring system

- (1) This section applies to the operator of a waste disposal site given a notice under section 63 requiring the operator to install, maintain and operate a monitoring system.
- (2) The operator must give the chief executive a plan for the monitoring system complying with subsection (3) within 21 days after the day the operator is required under the notice to install the monitoring system.

Maximum penalty—40 penalty units.

- (3) The plan for the monitoring system must contain a diagram of the system indicating the following in relation to the waste disposal site—
- (a) how the components that comprise the system have been positioned;
- (b) the scope of the coverage of recordings by the system.

Subdivision 5 Volumetric surveys

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67 Volumetric survey for levyable waste disposal site in waste levy zone

- (1) From 1 June 2020, the operator of a levyable waste disposal site in the waste levy zone must, in each year, in compliance with the requirements for volumetric surveys under section 70—
 - (a) ensure that a volumetric survey is carried out in June for—
 - (i) each landfill cell where waste has been disposed of since the last volumetric survey required under this subdivision was carried out; and
 - (ii) all stockpiled waste at the site; and
 - (b) give the chief executive a copy of the results of the volumetric surveys required under paragraph (a) before the end of July.

Maximum penalty—200 penalty units.

- (2) This section continues to apply to the operator—
 - (a) regardless of whether waste may no longer be delivered to the site; and
 - (b) even if the site ceases to be a levyable waste disposal site.
- (3) However, if a matter mentioned in subsection (2) happens, the carrying out of the survey and the giving of a copy of the results to the chief executive may happen earlier than when otherwise required under subsection (1).
- (4) This section does not apply to a small site until 1 June 2022.

68 Volumetric survey for levyable waste disposal site in non-levy zone in particular circumstances

- (1) This section applies to the operator of a levyable

waste disposal site if—

- (a) the site is in the non-levy zone; and
 - (b) either—
 - (i) from 1 July 2019 to 31 December 2019—at least 300 tonnes of levyable waste, generated outside the non-levy zone, is received at the site; or
 - (ii) from 1 January 2020—at least 600 tonnes of levyable waste, generated outside the non-levy zone, is received at the site during a year.
- (2) The operator of the levyable waste disposal site must—
- (a) ensure that a volumetric survey is carried out between 1 January and 30 June of the following year for—
 - (i) each active landfill cell at the site; and
 - (ii) all stockpiled waste at the site; and
 - (b) give the chief executive a copy of the results of the survey before the end of July in the following year.

Maximum penalty—200 penalty units.

- (3) The volumetric survey must be carried out in compliance with the requirements applying for volumetric surveys under section 70.
- (4) This section continues to apply to the operator—
 - (a) regardless of whether waste may no longer be delivered to the site; and
 - (b) even if the site ceases to be a levyable waste disposal site.
- (5) However, if a matter mentioned in subsection (4) happens, the carrying out of the survey and the giving of a copy of the results to the chief

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executive may happen earlier than when otherwise required under subsection (2).

- (6) This section does not apply to a small site until 1 June 2022.

69 Volumetric survey for new landfill cells

- (1) This section applies to the operator of—
- (a) a levyable waste disposal site in the waste levy zone; or
 - (b) a levyable waste disposal site in the non-levy zone if at least 600 tonnes of levyable waste generated outside the non-levy zone was received at the site during the preceding 12 months.
- (2) Before a landfill cell is used for the first time for disposing of waste to landfill at the site, the operator of the site must, in compliance with the requirements applying for volumetric surveys under section 70—
- (a) ensure that a volumetric survey is carried out for the landfill cell; and
 - (b) before the end of the month immediately following the month in which the volumetric survey is carried out, give the chief executive a copy of the results of the survey in the approved form.

Maximum penalty—200 penalty units.

- (3) This section applies whether or not waste has previously been disposed of to landfill at the levyable waste disposal site.

70 Requirements for volumetric surveys

- (1) This section states the requirements for carrying out volumetric surveys under this subdivision.

- (2) A volumetric survey must be carried out in compliance with the requirements prescribed by regulation.
- (3) The results of the volumetric survey must—
 - (a) be in the approved form; and
 - (b) be accompanied by a topographical plan complying with specifications advised by the chief executive; and
 - (c) be certified as accurate by a surveyor under the *Surveyors Act 2003*.

71 Failure to carry out volumetric survey or give chief executive the results

- (1) This section applies if the operator of a levyable waste disposal site fails—
 - (a) to comply with a requirement under this subdivision to carry out a volumetric survey; or
 - (b) to give a copy of the results of a volumetric survey to the chief executive.
- (2) The chief executive may arrange for the volumetric survey to be carried out at the site and for that purpose may direct an authorised person to enter the site to facilitate the carrying out of the survey.
- (3) The chief executive may recover the reasonable cost of the survey from the operator as a debt payable by the operator to the State.

Subdivision 6 Waste data returns

72 Submission of waste data returns

- (1) The operator of a levyable waste disposal site

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must give the chief executive the returns (each a **waste data return**) required of the operator under subsections (2) and (3)—

- (a) by the due date for the site; and
- (b) in the way decided by the chief executive as published on the department's website.

Maximum penalty—300 penalty units.

- (2) Each of the following operators must give the chief executive a summary data return—
 - (a) the operator of a levyable waste disposal site in the waste levy zone;
 - (b) the operator of a levyable waste disposal site in the non-levy zone if any levyable waste, generated at a place outside the non-levy zone, is received at the site during the levy period to which the return relates.
- (3) Each of the following operators must give the chief executive a detailed data return—
 - (a) the operator of a levyable waste disposal site in the waste levy zone if—
 - (i) the operator is required to hold an environmental authority for the disposal of more than 10,000 tonnes of waste in a year at the site; or
 - (ii) from 1 July 2021—the operator is required to hold an environmental authority for the disposal of more than 5,000 tonnes, but not more than 10,000 tonnes, of waste in a year at the site; or
 - (iii) from 1 July 2024—the operator is not mentioned in subparagraph (i) or (ii);
 - (b) the operator of a levyable waste disposal site in the non-levy zone if—

-
- (i) the operator is required to hold an environmental authority for the disposal of more than 10,000 tonnes of waste in a year at the site; and
 - (ii) at least 50 tonnes of levyable waste, generated outside the non-levy zone, is received at the site during the levy period to which the return relates.
- (5) In this section—

detailed data return means a return providing comprehensive information about all movements of waste and other material required to be measured under section 59.

due date, for a levyable waste disposal site, means—

- (a) the end of the last business day of the month following the end of a levy period for the site; or
- (b) if the chief executive grants an extension of time under section 72G, 72H or 72I for submitting the returns for the site—the end of the extension.

summary data return means a return providing a summary of information, required to be measured under section 59, that the chief executive may use to calculate amounts payable for a particular levy period for a levyable waste disposal site.

Subdivision 7 Record keeping

72A Operator of levyable waste disposal site to keep particular documents

The operator of a levyable waste disposal site must keep at the site, or at another place agreed to

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by the chief executive and the operator, each of the following documents for the period stated for the document—

- (a) a copy of a waste data return for 5 years after the return is given to the chief executive;
- (b) records containing any information that was used to support the preparation of a waste data return, including each of the following records, for 5 years after the return is given to the chief executive—
 - (i) weighbridge records;
 - (ii) if weight measurement criteria were used—records of vehicles delivering waste to the site;
 - (iii) for small sites that have used an alternative methodology under section 325, records that enable the chief executive to fairly work out the total waste levy amount owing for the site in a levy period;
- (c) a record required to be kept under section 58(3)(b) and section 65(2)(b) for 5 years after the record is made;
- (d) a copy of the results of a volumetric survey of a landfill cell at the site for 5 years after the survey is carried out;
- (e) a copy of the results of a volumetric survey of stockpiled waste at the site for 5 years after the survey is carried out;
- (f) a copy of a notice the operator is required to give the chief executive under this chapter for 5 years after giving the notice;
- (g) any other record prescribed by regulation for the period prescribed by regulation.

Maximum penalty—300 penalty units.

Division 3 Payment options

Subdivision 1 Waste levy instalment agreements

72B Waste levy instalment agreement

- (1) A *waste levy instalment agreement* is an agreement between the operator of a levyable waste disposal site and the chief executive providing for the payment by instalments of a waste levy amount owed by the operator instead of in compliance with the requirements that would otherwise apply under this chapter for the payment of the amount.
- (2) A waste levy instalment agreement may relate to 2 or more levyable waste disposal sites for which the same person is the operator.

72C Application for waste levy instalment agreement

- (1) The operator of a levyable waste disposal site may apply to the chief executive to enter into a waste levy instalment agreement for a waste levy amount the operator must pay the State.
- (2) The application must be in the approved form and be accompanied by—
 - (a) a description of the operator's financial situation that caused the operator's inability to pay the waste levy amount by the due date for payment and how the financial situation came about; and

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- (b) up-to-date management and financial records to verify the information given under paragraph (a).
- (3) The chief executive must, within 20 days after receiving the application, decide either to grant or to refuse the application and—
 - (a) if the decision is to grant the application—give the operator a notice stating—
 - (i) the terms of the waste levy instalment agreement; and
 - (ii) the period within which all waste levy amounts must be paid under the waste levy instalment agreement; or
 - (b) if the decision is to refuse the application—give the operator an information notice for the decision.
- (4) The chief executive may grant the application only if satisfied the applicant has demonstrated—
 - (a) an inability to pay the waste levy amount within the time required under this chapter; and
 - (b) how entering into the waste levy instalment agreement will allow the applicant to pay the waste levy amount while at the same time allowing the applicant to pay future waste levy amounts.
- (5) However—
 - (a) there may be only 1 waste levy instalment agreement in force between the operator of a levyable waste disposal site and the chief executive at any time; and
 - (b) only 1 waste levy instalment agreement may be entered into between the operator of a levyable waste disposal site and the chief executive in a financial year; and

- (c) the period within which all waste levy amounts must be paid under the waste levy instalment agreement must not be longer than 6 months after the agreement is entered into.
- (6) A failure to make a decision within the period required is taken to be a decision by the chief executive to refuse the application.

72D Amendment of waste levy instalment agreement

- (1) The operator of a levyable waste disposal site may apply to the chief executive for an amendment of a waste levy instalment agreement to—
 - (a) include an additional waste levy amount; or
 - (b) extend the period for the repayment of the total waste levy amount the subject of the agreement.
- (2) However—
 - (a) any additional waste levy amount must not be greater than 10% of the total waste levy amount owing by the operator when the application is made, other than an amount already the subject of the agreement; and
 - (b) the period of any extension must not be more than 3 months; and
 - (c) the operator must not have previously made an application for the amendment of the waste levy instalment agreement.
- (3) The application must be in the approved form and state—
 - (a) any additional waste levy amount sought to be included in the agreement; and
 - (b) the length of any extension sought; and

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- (c) the changes in the applicant's circumstances that have caused the applicant to seek the amendment.
- (4) The chief executive must, within 20 days after receiving the application, decide either to grant or to refuse the application and—
 - (a) if the decision is to grant the application— give the operator a notice stating—
 - (i) the terms of the amended waste levy instalment agreement; and
 - (ii) the period within which all waste levy amounts must be paid under the amended waste levy instalment agreement; or
 - (b) if the decision is to refuse the application— give the operator an information notice for the decision.
- (5) The chief executive may grant the application only if satisfied the applicant has demonstrated—
 - (a) an inability to pay waste levy amounts owing within the time provided for in the agreement; and
 - (b) how amendment of the agreement will allow the applicant to pay all waste levy amounts owing and future waste levy amounts.
- (6) The making of an application under this section does not of itself affect the applicant's obligations under the waste levy instalment agreement sought to be amended.

72E Interest affected by waste levy instalment agreement

- (1) Subsection (2) applies for a waste levy instalment agreement if—

- (a) the application for the agreement was made after the due date for payment of a waste levy amount the subject of the application; and
 - (b) the agreement is entered into.
- (2) Interest is payable under this chapter up to the day the application was made and must be paid on or before the due date for payment of the next waste levy amount.
- (3) If an application for a waste levy instalment agreement is refused, the requirements under this chapter for the payment of interest continue to apply unaffected by the making or refusal of the application.

72F Failure to pay an instalment under waste levy instalment agreement

- (1) If an instalment of a waste levy amount is not paid on or before an instalment day under a waste levy instalment agreement—
- (a) the waste levy instalment agreement is taken to be no longer in force; and
 - (b) the due date for payment of any waste levy amount provided for in the agreement becomes—
 - (i) if the amount, apart from the agreement, would have been required to be paid on a day later than the instalment day—the later day; or
 - (ii) if the amount, apart from the agreement, would have been required to be paid on a day earlier than the instalment day—the day after the instalment day, or if that day is not a

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business day, the next business day;
and

- (c) for an amount mentioned in paragraph (b)(ii), interest becomes payable on the amount as if the waste levy instalment agreement had not been entered into, but only on and from the day after the instalment day, whether or not the day after the instalment day is a business day.

- (2) In this section—

instalment day, under a waste levy instalment agreement, means a day when a payment is due under the agreement.

Subdivision 2 Extension of time

72G Application for extension of time to pay waste levy amount

- (1) The operator of a levyable waste disposal site may apply to the chief executive for an extension of time to pay a waste levy amount if the operator believes the operator can not pay the amount by the due date for payment of the amount.
- (2) However—
 - (a) the extension of time can not be for more than 1 month; and
 - (b) the operator can not apply for the extension of time if the operator is conducting operations at the site for which the operator does not hold an environmental authority; and
 - (c) the operator can not make more than—
 - (i) 1 application for an extension of time under this section or section 72H for

the payment of the same waste levy amount; or

(ii) 2 applications under this section or section 72H in a financial year.

- (3) The application must—
- (a) be made before the due date for payment of the waste levy amount; and
 - (b) state the reasons why the extension is being applied for.
- (4) The chief executive must, within 5 business days after the due date for payment of the waste levy amount, decide either to grant or to refuse the application and—
- (a) if the decision is to grant the application—give the applicant a notice stating a new due date for payment of the waste levy amount; or
 - (b) if the decision is to refuse the application—give the applicant an information notice for the decision.
- (5) The chief executive may grant the application only if satisfied that it is not reasonable to expect the applicant to pay the waste levy amount by the due date for payment.

Example of when the chief executive may grant an application—

The operator has suffered a significant disruption to electricity supply or an extensive computer malfunction.

- (6) A failure to make a decision within the period required is taken to be a decision by the chief executive to refuse the application.

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72H Application for extension of time to submit waste data return and pay waste levy amount

- (1) The operator of a levyable waste disposal site may apply to the chief executive for an extension of time to submit a waste data return and pay a waste levy amount if the operator considers the operator can not pay the amount by the due date for payment of the amount.
- (2) However—
 - (a) the extension of time can not be for more than 1 month after—
 - (i) for submission of the waste data return—the due date for submission of the return; or
 - (ii) for payment of the waste levy amount—the due date for payment of the amount; and
 - (b) the operator can not apply for the extension of time if the operator is conducting operations at the site for which the operator does not hold an environmental authority; and
 - (c) the operator can not make more than—
 - (i) 1 application for an extension of time under this section or section 72G for the payment of the same waste levy amount; or
 - (ii) 2 applications under this section or section 72G in a financial year.
- (3) The application must—
 - (a) be made by the due date for the submission of the waste data return for the site; and
 - (b) state the reasons why the extension is being applied for.

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- (4) The chief executive must, within 5 business days after the due date for the submission of the waste data return for the site, decide either to grant or to refuse the application and—
- (a) if the decision is to grant the application—
give the applicant a notice stating a new day by which the waste data return must be submitted and the new date by which the waste levy amount must be paid; or
- (b) if the decision is to refuse the application—
give the applicant an information notice for the decision.
- (5) The chief executive may grant the application only if satisfied that it is not reasonable to expect the applicant to pay the waste levy amount by the due date for payment.

Example of when the chief executive may grant an application—

The operator has suffered a significant disruption to electricity supply or an extensive computer malfunction.

- (6) A failure to make a decision within the period required is taken to be a decision by the chief executive to refuse the application.

72I Public notice granting extension of time to submit waste data return and pay waste levy amount

- (1) The chief executive may by publication on the department's website grant an extension of time to the operators of stated levyable waste disposal sites to do either of the following—
- (a) pay a waste levy amount;
- (b) submit a waste data return and pay a waste levy amount.
- (2) The chief executive may grant an extension under

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this section only if satisfied that the extension is justified because of a significant emergency.

Subdivision 3 Chief executive's estimation of waste levy amount

72J Estimation of waste levy amount payable by operator of levyable waste disposal site

- (1) The chief executive may decide an estimate of the waste levy amount payable by the operator of a levyable waste disposal site for a particular period (the *estimated waste levy amount*) if—
 - (a) the operator did not give the chief executive a waste data return by the due date for the site under section 72; or
 - (b) the operator gave the chief executive information, whether or not in the form of a waste data return, that the chief executive considers on reasonable grounds to be incomplete or inaccurate; or
 - (c) the chief executive is satisfied on reasonable grounds that the waste levy amount payable by the operator for the period is incorrect.
- (2) If the chief executive decides an estimated waste levy amount for the operator—
 - (a) that amount becomes the waste levy amount payable by the operator for the period; and
 - (b) the chief executive must give the operator an information notice for the decision.
- (3) To remove any doubt, it is declared that—
 - (a) the chief executive may act under this section even if the due date for payment of

-
- the waste levy amount payable has passed;
and
- (b) the chief executive deciding an estimate of the waste levy amount payable by the operator for a period under this section does not change the due date for payment of the amount; and
 - (c) nothing in this section stops a subsequent adjustment being made to the waste levy amount payable by the operator for the period if a different amount is decided under a review of the chief executive's decision on the estimated waste levy amount.

Subdivision 4 Bad debt credit

72K Eligibility for bad debt credit after insolvency or bankruptcy of customer

- (1) The operator of a waste disposal site is eligible for a credit (a *bad debt credit*) for the waste levy amount payable by the operator on an amount of waste delivered to the site if—
 - (a) the operator was the operator of the site when the waste was delivered; and
 - (b) the waste was delivered to the site by another person (the *customer*) for consideration in money; and
 - (c) the operator included the waste in a summary data return for the site for the levy period in which the waste was delivered; and
 - (d) the operator paid the waste levy amount; and
 - (e) the operator issued an invoice to the customer for the delivery within 30 days

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after the waste was delivered to the site and—

- (i) the invoice expressly included a service delivery charge for the operator's obligation to pay waste levy on the waste when delivered to the site; and
 - (ii) the service delivery charge, excluding any component for GST, was not more than the waste levy amount; and
- (f) the customer failed to pay the operator all or part of the amount due for delivery of the waste within 30 days after being given an invoice for the amount; and
 - (g) the customer became insolvent within 12 months after the delivery of the waste to the site; and
 - (h) the operator has been unable to recover the amount owing from the customer despite having taken reasonable steps to do so; and
 - (i) the operator has offset against the amount owing by the customer any amount owed by the operator to the customer that may be set off against that amount; and
 - (j) the operator has reduced the amount owing by the value of any enforceable security the operator holds in relation to the customer but an amount remains outstanding in relation to the delivery; and
 - (k) the operator has submitted all the waste data returns and paid all waste levy owing by the operator when applying for the bad debt credit.
- (2) However, the operator is not eligible for the bad debt credit if—

- (a) the operator and the customer are, or were when the waste was delivered, related entities; or
 - (b) it is for an amount of waste delivered to the site while the customer continued to owe the operator an amount, for a previous delivery of waste, more than 30 days after being given an invoice for the previous delivery; or
 - (c) the operator has previously received a bad debt credit for the relevant delivery of the waste.
- (3) A person is a *related entity* for another person if—
- (a) for individuals—they are members of the same family; or
 - (b) for an individual and a corporation—the individual or a member of the individual's family—
 - (i) is a majority shareholder, director or secretary of the corporation or a related body corporate of the corporation; or
 - (ii) has an interest of 50% or more in the corporation; or
 - (c) for an individual and a trustee of a trust—the individual or a related entity under another provision of this section is a beneficiary of the trust; or
 - (d) for corporations—they are related bodies corporate; or
 - (e) for a corporation and a trustee of a trust—the corporation or a related entity under another provision of this section is a beneficiary of the trust; or
 - (f) for trustees of 2 or more trusts—

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- (i) a person is a beneficiary of both trusts;
or
 - (ii) a person is a beneficiary of 1 trust and a related entity under another provision of this section is a beneficiary of the other trust.
- (4) In this section—
- family*, for a person, means—
- (a) the person’s spouse; or
 - (b) a parent of the person or the person’s spouse; or
 - (c) a grandparent of the person or the person’s spouse; or
 - (d) a brother, sister, nephew or niece of the person or the person’s spouse; or
 - (e) a child of the person or the person’s spouse;
or
 - (f) a grandchild of the person; or
 - (g) the spouse of any person mentioned in paragraphs (b) to (f).

insolvent means insolvent under the Corporations Act, section 95A(2).

operator, of a waste disposal site, includes a former operator of the site.

related body corporate see the Corporations Act, section 50.

summary data return see section 72(5).

72L Application for bad debt credit

- (1) The operator or former operator of a waste disposal site who is eligible for a bad debt credit may apply to the chief executive for relief.

- (2) The application must—
 - (a) be in the approved form; and
 - (b) be supported by enough information to allow the chief executive to decide the application.

72M Chief executive may require additional information or documents

- (1) Within 28 days after receiving a bad debt credit application, the chief executive may, by notice given to the applicant, require the applicant to give the chief executive further reasonable information or documents about the application by a reasonable day stated in the notice.
- (2) The applicant may, before the stated day, agree with the chief executive about extending the time for providing the further information or documents.
- (3) The application is taken to be withdrawn if the applicant does not give the chief executive the further information or documents by the stated day or the end of any extension agreed between the chief executive and the applicant.

72N Deciding application

- (1) The chief executive must decide either to grant or refuse a bad debt credit application within 30 days after the later of the following days—
 - (a) the day the chief executive receives the application;
 - (b) if additional information or documents are requested under section 72M—the day the chief executive receives the information or documents.

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- (2) In deciding whether to grant or refuse the application, the chief executive must consider the information included in the application.
- (3) The chief executive must—
 - (a) grant a bad debt credit application if the applicant is eligible for the credit; or
 - (b) refuse a bad debt credit application if the applicant is not eligible for the credit.
- (4) A failure to make a decision within the period required is taken to be a decision by the chief executive to refuse the application.

72O Grant of application

- (1) If the chief executive decides to grant a bad debt credit application, the chief executive must, within 5 business days after granting the application, give the applicant a notice stating—
 - (a) the application has been granted; and
 - (b) the amount of the bad debt credit.
- (2) The notice must also include or be accompanied by an information notice for the decision in relation to the amount of the bad debt credit.

72P Refusal of application

If the chief executive decides to refuse a bad debt credit application, the chief executive must, within 5 business days after refusing the application, give the applicant an information notice for the decision.

72Q Payment of bad debt credit

- (1) This section applies if the chief executive decides to grant a bad debt credit application.

- (2) The chief executive must deduct the amount of the bad debt credit from the waste levy amount the applicant is required to remit to the State under section 56 for the relevant levy period.
- (3) Also, if the total amount of the bad debt credit is more than the amount the applicant is required to remit to the State, the chief executive must pay the applicant an amount equal to the excess.
- (4) If the applicant is no longer the operator of a waste disposal site, the chief executive must pay the applicant an amount equal to the bad debt credit.
- (5) In this section—
relevant levy period, for an application, means the levy period at the time the application is decided.

Part 6 Resource recovery area

Division 1 Declaration of resource recovery area

72R Resource recovery area

The operator of a waste disposal site may declare an area within the site as a *resource recovery area* if—

- (a) a recycling activity is conducted in the area; and
- (b) the operator, or another entity that is responsible for the operation of the area, holds all licences, environmental authorities or other approvals required for conducting the recycling activity in the area; and
- (c) a physical barrier—

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- (i) separates the area from the rest of the site; and
- (ii) prevents vehicles from moving between the area and the rest of the site other than through points of access shown on the plan of the site accompanying a notice under section 72S or 72U; and
- (d) the area and the physical barrier comply with the requirements prescribed by regulation for the area and barrier; and
- (e) there has not, within the last year, been a revocation of a declaration of a resource recovery area at the site.

72S Declaration of resource recovery area

- (1) The operator of a waste disposal site declares a resource recovery area by giving the chief executive notice of a proposed resource recovery area at least 20 days before using the area as a resource recovery area.
- (2) The notice must—
 - (a) be in the approved form; and
 - (b) state the day the declaration takes effect; and
 - (c) include a description of the activities to be carried out in the resource recovery area; and
 - (d) be accompanied by a plan of the waste disposal site indicating the resource recovery area and clearly showing—
 - (i) the physical barrier between the area and the rest of the site; and

- (ii) the points of access allowing vehicles to move between the area and the rest of the site; and
- (e) be signed by the operator and any other entity that will be responsible for the area.

72T Effect of declaration of resource recovery area

If the requirements under this division for the declaration or amendment of a resource recovery area have been complied with, and the declaration has not been cancelled or revoked—

- (a) the resource recovery area is not part of the levyable waste disposal site whose operator made the declaration; and
- (b) all waste that is moved from the resource recovery area to the levyable waste disposal site is, for the purposes of the waste levy, taken to be waste delivered to the levyable waste disposal site.

Note—

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

72U Amendment of resource recovery area

- (1) The operator of a waste disposal site for which a resource recovery area has been declared may amend the area's declaration as a resource recovery area by giving the chief executive notice of the proposed amendment at least 20 days before the amendment is to take effect.
- (2) The notice must—
 - (a) be in the approved form; and

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- (b) state the day the amendment takes effect; and
 - (c) if the recycling activities to be conducted in the amended resource recovery area differ from the activities currently carried out in the area—include a description of the recycling activities to be conducted in the amended resource recovery area; and
 - (d) be accompanied by a plan of the waste disposal site indicating the amended resource recovery area and clearly showing—
 - (i) the physical barrier between the area and the rest of the site; and
 - (ii) the points of access allowing vehicles to move between the area and the rest of the site; and
 - (e) be signed by the operator and any other entity that will be responsible for the area.
- (3) The operator need not act under subsection (1) if the only change to the resource recovery area is a change to—
- (a) the recycling activities conducted in the area; or
 - (b) the physical barrier or points of access for the area that do not change the boundaries of the area; or
 - (c) the entity having responsibility for the operation of the area.
- (4) If an amendment of a resource recovery area under this section results in a part of the area being within the levyable waste disposal site—
- (a) that part of the area becomes part of the site; and

- (b) all waste within that part of the area is, for the purposes of the waste levy, taken to be waste delivered to the site.

Note—

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

72V Cancellation of resource recovery area

- (1) The operator of a waste disposal site for which a resource recovery area has been declared may cancel the area's declaration as a resource recovery area by giving the chief executive notice of the proposed cancellation at least 30 days before the cancellation is to take effect.
- (2) The notice must state the day the cancellation takes effect.
- (3) If a resource recovery area is cancelled under this section—
 - (a) the cancelled area becomes part of the levyable waste disposal site; and
 - (b) all waste within the cancelled area is, for the purposes of the waste levy, taken to be waste delivered to the levyable waste disposal site.

Note—

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

72W Revocation of resource recovery area by chief executive

- (1) The chief executive may revoke a declaration by the operator of a waste disposal site of an area as a resource recovery area if—

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- (a) there is an active landfill cell within the area; or
 - (b) the amount of waste, including recyclable waste, stockpiled in the area is greater than the total amount of waste delivered to the area in the previous 12 months; or
 - (c) the operator or another entity having responsibility for the operation of the resource recovery area is convicted of an offence under this part; or
 - (d) the chief executive is satisfied the area does not fulfil, or no longer fulfils, the requirements under section 72R for an area to be declared as a resource recovery area.
- (2) Before revoking the declaration (the ***proposed action***), the chief executive must give notice to the operator of the waste disposal site stating all of the following—
- (a) the proposed action;
 - (b) the grounds for taking the proposed action;
 - (c) the facts and circumstances that form the basis for the grounds;
 - (d) when the proposed action is intended to take effect;
 - (e) that the operator may make, within a stated period, written submissions to show why the proposed action should not be taken.
- (3) The stated period for submissions must not end earlier than 21 days after the operator of the waste disposal site is given the notice.
- (4) The chief executive must consider all submissions made under subsection (2)(e).
- (5) If the chief executive decides to take the proposed action, the chief executive must, within 10

business days after making the decision, give the operator of the waste disposal site an information notice for the decision.

- (6) The decision takes effect when the information notice is given.
- (7) If a resource recovery area is revoked under this section—
 - (a) the area becomes part of the levyable waste disposal site; and
 - (b) all waste within the area is, for the purposes of the waste levy, taken to be waste delivered to the levyable waste disposal site.

Note—

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

Division 2 Obligations relating to resource recovery area

72X Requirement to keep documents

An entity having responsibility for the operation of a resource recovery area must keep the following documents for at least 5 years after the event that is the subject of the document happens—

- (a) any document that records waste delivered to the area, including its measurements;
- (b) any document that records waste or other material removed from the area as mentioned in section 59(d), including its measurements;

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- (c) a copy of the results of a volumetric survey of the area carried out under section 72Y or 72Z;
- (d) any document that records any other event for the area as prescribed by regulation.

Maximum penalty—300 penalty units.

72Y Volumetric survey for resource recovery area in waste levy zone

- (1) From 1 June 2020, this section applies for a resource recovery area for a waste disposal site in the waste levy zone.
- (2) The entity having responsibility for the operation of the resource recovery area must, in each year—
 - (a) ensure that a volumetric survey is carried out in June for all stockpiled waste at the resource recovery area; and
 - (b) give the chief executive a copy of the results of the volumetric survey in the approved form before the end of July.

Maximum penalty—200 penalty units.

- (3) The volumetric survey must be carried out in compliance with the requirements prescribed by regulation.
- (4) The results of the volumetric survey must—
 - (a) be in electronic form; and
 - (b) include a topographical plan complying with the specifications advised by the chief executive; and
 - (c) include details of the following—
 - (i) the area of the resource recovery area;
 - (ii) the stockpiles of waste, including recyclable waste, at the area; and

- (d) be certified as accurate by a surveyor under the *Surveyors Act 2003*.
- (5) This section continues to apply to the entity having responsibility for the operation of the resource recovery area even if the declaration of the area as a resource recovery area is cancelled or revoked.
- (6) However, if a matter mentioned in subsection (5) happens, the carrying out of the survey and the giving of a copy of the results to the chief executive may happen earlier than when otherwise required under subsection (2).
- (7) This section does not apply to a resource recovery area for a small site until 1 June 2022.

72Z Volumetric survey for resource recovery area in non-levy zone

- (1) This section applies for a resource recovery area declared for a waste disposal site if—
 - (a) the site is in the non-levy zone; and
 - (b) either—
 - (i) from 1 July 2019 to 31 December 2019—at least 300 tonnes of levyable waste, generated outside the non-levy zone, is received at the resource recovery area; or
 - (ii) from 1 January 2020—at least 600 tonnes of levyable waste, generated outside the non-levy zone, is received at the resource recovery area during a year.
- (2) The entity having responsibility for the operation of the resource recovery area must—
 - (a) before the end of June of the following year, ensure a volumetric survey is carried out for

[s 6]

all stockpiled waste at the resource recovery area; and

- (b) before the end of July in the following year, give the chief executive a copy of the results of the survey in the approved form.

Maximum penalty—200 penalty units.

- (3) The volumetric survey must be carried out in compliance with the requirements prescribed by regulation.
- (4) The results of the volumetric survey must—
 - (a) be in electronic form; and
 - (b) include a topographical plan complying with specifications advised by the chief executive; and
 - (c) include details of the following—
 - (i) the area of the resource recovery area;
 - (ii) the stockpiles of waste, including recyclable waste, at the area; and
 - (d) be certified as accurate by a surveyor under the *Surveyors Act 2003*.
- (5) This section continues to apply to the entity having responsibility for the operation of the resource recovery area even if the declaration of the area as a resource recovery area is cancelled or revoked.
- (6) However, if a matter mentioned in subsection (5) happens, the carrying out of the survey and the giving of a copy of the results to the chief executive may happen earlier than when otherwise required under subsection (2).
- (7) This section does not apply to a resource recovery area declared for a small site until 1 June 2022.

73 Volumetric survey carried out by chief executive

- (1) This section applies if the entity having responsibility for the operation of a resource recovery area—
 - (a) is required to carry out a volumetric survey under section 72Y(2)(a) or 72Z(2)(a); but
 - (b) fails to carry out the volumetric survey in compliance with the requirements prescribed by regulation.
- (2) The chief executive may arrange for the volumetric survey to be carried out at the resource recovery area and for that purpose may direct an authorised person to enter the area to facilitate the carrying out of the survey.
- (3) The chief executive may recover the cost of carrying out the volumetric survey from the entity as a debt payable by the entity to the State.

73A Obligations of entity responsible for operation of resource recovery area

- (1) This section applies if the operator of a waste disposal site has declared, or claims to have declared, an area as a resource recovery area under section 72S.
- (2) The entity having responsibility for the operation of the resource recovery area must ensure—
 - (a) there is not an active landfill cell within the area; and
 - (b) the area complies with the requirements for the area prescribed by regulation; and
 - (c) the physical barrier between the resource recovery area and the rest of the waste disposal site complies with the requirements prescribed by regulation; and

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- (d) the points of access allowing vehicles to move between the area and the rest of the waste disposal site comply with the requirements prescribed by regulation.

Maximum penalty—1,665 penalty units.

73B False claims about resource recovery area

- (1) The operator of a waste disposal site must not claim to have a resource recovery area for the site if—
 - (a) the operator has not declared the area under section 72S; or
 - (b) the declaration of the area has been cancelled or revoked under section 72V or 72W.

Maximum penalty—1,665 penalty units.

- (2) The operator of a waste disposal site must not falsely claim a part of the site is within the resource recovery area for the site.

Maximum penalty—1,665 penalty units.

73C Changes affecting resource recovery area requiring notification

- (1) This section applies for a waste disposal site if a declaration of a resource recovery area is in effect for the site.
- (2) If there is a change to the physical barrier or points of access for the resource recovery area that does not change the boundaries of the area, the operator of the waste disposal site must do all of the following within 7 days after the change happens—
 - (a) amend the plan of the waste disposal site;

- (b) give the chief executive notice of the change in the approved form;
- (c) give the chief executive a copy of the amended plan of the waste disposal site indicating the resource recovery area and clearly showing the physical barrier and points of access for the area.

Maximum penalty—300 penalty units.

- (3) If the recycling activities declared to be conducted in the resource recovery area change, the operator of the waste disposal site must advise the chief executive of the change within 7 days after the change happens.

Maximum penalty—100 penalty units.

- (4) If there is a change of the entity having responsibility for the operation of the resource recovery area, the entity having responsibility for the operation of the area immediately before the change must notify the chief executive of the change within 7 days after the change happens.

Maximum penalty—100 penalty units.

Part 7 Miscellaneous

73D Annual payment to local governments

- (1) The chief executive must make to each local government affected by the waste levy an annual payment as prescribed by regulation.
- (2) A local government must use the amount paid to the local government to mitigate any direct impacts of the waste levy on households in the local government's local government area.
- (3) If the chief executive reasonably believes a local government has not used the amount paid to the

[s 6]

local government as required, the chief executive must not make a further annual payment to the local government until it uses the amount as required.

- (4) All rate notices issued by a local government during the year to which the annual payment relates must include a statement that informs the ratepayer of the amount paid to the local government and the purpose of the payment.
- (5) If the chief executive reasonably believes a local government has not included the statement in the rate notices as required, the chief executive may refuse to make a further annual payment to the local government until it informs ratepayers of the amount paid and the purpose of the payment.
- (6) If the chief executive reasonably believes a local government has distributed misinformation in relation to an annual payment after receiving the payment, the chief executive may refuse to make a further annual payment to the local government until it informs the intended audience for the distribution how the misinformation is false or misleading.
- (7) A local government is taken to have distributed misinformation in relation to an annual payment if the local government—
 - (a) included the misinformation in a rate notice or other document issued by the local government; or
 - (b) published the misinformation on the local government's website; or
 - (c) included the misinformation in an advertisement made by, or on behalf of, the local government.
- (8) In this section—

misinformation, in relation to an annual payment,

means a false or misleading statement about—

- (a) the impact of the waste levy on a local government; or
- (b) the purpose of the annual payment; or
- (c) the amount of the annual payment paid to a local government.

rate notice—

- (a) for the City of Brisbane—see the *City of Brisbane Regulation 2012*, schedule 4; or
- (b) for any other local government—see the *Local Government Regulation 2012*, schedule 8.

ratepayer, for a rate notice, means the entity given the notice.

73E Review of efficacy of waste levy

The chief executive must review the efficacy of the waste levy—

- (a) within 3 years after the commencement; and
- (b) at intervals of not more than 10 years from 1 review to the next.

7 Amendment of s 104 (Illegal dumping of waste provision)

Section 104(1), penalty—

omit, insert—

Maximum penalty—

- (a) if the offence involves depositing a volume of less than 2,500L of waste—400 penalty units; or

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- (b) if the offence involves depositing a volume of 2,500L or more of waste—whichever is the greater of the following amounts—
 - (i) 1,000 penalty units;
 - (ii) a fine that is twice the waste levy amount that would have been payable, when the waste was dumped, by the operator of a levyable waste disposal site if the waste had been delivered to the site.

8 Amendment of ch 7, hdg (Reporting about waste management)

Chapter 7, heading, after ‘management’—

insert—

and waste disposal and recycling

9 Replacement of ch 7, pt 3 (Reporting by chief executive)

Chapter 7, part 3—

omit, insert—

Part 3 Reporting on waste disposal and recycling

154 Annual report on waste disposal and recycling

- (1) The chief executive must, by 31 December in each year, prepare and make publicly available a report that summarises the amounts of waste and recycling reported in the most recently completed financial year.
- (2) In preparing the report, the chief executive must have regard to information given to the chief executive under parts 1 and 2 and chapter 3, part

5.

- (3) The report must include the following information and, if appropriate, an evaluation of the information—
- (a) the total amount of the waste levy paid to the State;
 - (b) the amount and types of waste on which the waste levy was paid to the State;
 - (c) the amounts and types of waste on which the waste levy would have been paid if it were not exempt waste;
 - (d) the number of levyable waste disposal sites in the waste levy zone and non-levy zone that received waste on which the waste levy was paid to the State;
 - (e) the amounts of annual payments made to local governments under section 73D;
 - (f) the amounts and types of waste reported as being recycled by local governments;
 - (g) the amounts and types of waste reported as being recycled by reporting entities;
 - (h) the amounts and types of waste reported as being disposed of by local governments;
 - (i) the amounts and types of waste reported as being disposed of by reporting entities;
 - (j) the amounts and types of waste reported as being the subject of littering or illegal dumping;
 - (k) the number of product stewardship schemes in effect under this Act;
 - (l) the number of local governments that have adopted a waste reduction and recycling plan and have reported on the plan;

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- (m) the number of State entities that have adopted a waste reduction and recycling plan and have reported on the plan;
- (n) the number of planning entities that have adopted waste reduction and recycling plans, other than by adopting the waste reduction and recycling plan of a sector of reporting entities;
- (o) the number of waste reduction and recycling plans that are in place for sectors of reporting entities.

9A Amendment of s 204 (Power to enter)

Section 204(1), ‘section 41(1)’—

omit, insert—

section 53(2)

9B Amendment of s 206 (Application of div 1)

Section 206, ‘section 41(1)’—

omit, insert—

section 53(2)

10 Amendment of s 245 (Definitions for chapter)

Section 245, definition *prescribed provision*, paragraph (a), ‘43(2), 44(2), 52(2)’—

omit, insert—

38, 53(2), 54(2), 57(2) or (3), 58(2), 60(2), (4) or (6), 61(2) or (3), 63(4), 64(2), 66(2), 67(1), 68(2), 69(2), 72(1), 72A, 72X, 72Y(2), 72Z(2), 73A(2)

11 Amendment of s 249 (Restriction on giving compliance notice)

Section 249(3) and (4), ‘section 43(2)’—

omit, insert—

section 57(2) or (3)

12 Amendment of s 251 (Person must comply with notice)

Section 251, penalty, paragraph (b), ‘section 43(3) or (4)’—

omit, insert—

section 58(2) or (3)

13 Amendment of s 253 (When waste audit required)

Section 253(4), definition *prescribed provision*, ‘43(2), 44(3), 52(1),’—

omit, insert—

56(2), 57(2) or (3), 58(2), 60(2), (4) or (6), 61(2) or (3), 67(1), 68(2), 69(2), 72(1), 72A, 72X, 72Y(2), 72Z(2), 73A(2), 73B(1) or (2),

14 Insertion of new ch 12A

After section 257—

insert—

Chapter 12A Legal proceedings

257A Application of chapter

This chapter applies to a legal proceeding under this Act.

257B Appointments and authority

The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) the chief executive's appointment;
- (b) an authorised person's appointment.

257C Signatures

A signature purporting to be the signature of the following person is evidence of the signature it purports to be—

- (a) the chief executive;
- (b) an authorised person.

257D Evidentiary provisions

- (1) A certificate purporting to be signed by the chief executive and stating any of the following matters is evidence of the matter—
 - (a) on a stated day a stated waste levy amount was payable by a stated person;
 - (b) on a stated day a stated person was given a stated notice or direction under this Act;
 - (c) a stated amount that is or was payable under this Act by a stated person had or had not been paid by the person on a stated day;
 - (d) a stated document is a copy of a document issued, given, received or kept by the chief executive under this Act;
 - (e) on a stated day, or during a stated period, a stated person was or was not the holder of an approval, agreement, extension or other authority given under this Act;

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- (f) on a stated day, or during a stated period, a stated person was or was not the holder of an environmental approval or other authority given under the Environmental Protection Act;
 - (g) an approval, agreement, extension or other authority given under this Act or an environmental approval or other authority given under the Environmental Protection Act—
 - (i) was or was not issued or given for a stated term; or
 - (ii) was or was not in force on a stated day or during a stated period; or
 - (iii) was or was not subject to a stated condition;
 - (h) the reasonable costs incurred by the chief executive in investigating and prosecuting an offence.
- (2) In a proceeding for an offence against this Act, the production by the prosecutor of a certificate purporting to be signed by an appropriately qualified person (the *analyst*) and stating any of the following matters is evidence of the matter stated in the certificate—
- (a) the analyst received from a stated person the sample mentioned in the certificate;
 - (b) the analyst analysed the sample on a stated day and at a stated place;
 - (c) the results of the analysis.

15 Amendment of s 258 (Court may make particular orders)

Section 258(7), definition *prescribed offence*—
omit, insert—

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prescribed offence means an offence against section 53(2), 57(2) or (3), 58(2), (3) or (4), 60(2), (4) or (6), 61(2) or (3), 69(2), 72(1), 73A(2), 73B(1) or (2), 101, 104(1), 158(1) or (2), 173K(2), 264(1) or (2), 265(1), 265A(2), 296(1) or 297(1).

16 Amendment of s 264 (General duties about documents or records)

Section 264—

insert—

- (3) However, if a person contravenes subsection (1) or (2) with the intent to evade payment of the waste levy, the person is liable to a maximum penalty of—
- (a) 2 years imprisonment; or
 - (b) whichever is the greater of the following amounts—
 - (i) 2,000 penalty units;
 - (ii) a fine that is twice the waste levy amount the payment of which the person sought to evade, and twice the amount of any interest payable in relation to the failure to pay the waste levy amount by the due date for its payment.

17 Replacement of s 265 (Giving chief executive false or misleading information)

Section 265—

omit, insert—

265 Giving chief executive false or misleading information

- (1) A person must not, in relation to the

administration of this Act, give the chief executive information the person knows is false or misleading in a material particular.

Maximum penalty—1,665 penalty units.

- (2) However, if the person gave the information to the chief executive with the intent to evade payment of the waste levy, the person is liable to a maximum penalty of—
- (a) 2 years imprisonment; or
 - (b) whichever is the greater of the following amounts—
 - (i) 2,000 penalty units;
 - (ii) a fine that is twice the waste levy amount the payment of which the person sought to evade, and twice the amount of any interest payable in relation to the failure to pay the waste levy amount by the due date for its payment.
- (3) Subsection (1) applies to information given in relation to the administration of this Act whether or not the information was given in response to a specific power under this Act.
- (4) Subsection (1) does not apply to a person if the person, when giving information in a document—
- (a) tells the chief executive, to the best of the person's ability, how the document is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

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265A Giving chief executive incomplete information

- (1) This section applies to a person who is required under chapter 3 to give a document to the chief executive.
- (2) The person must not give the chief executive a document the person knows, or ought reasonably to know, contains incomplete information in a material particular.

Maximum penalty—1,665 penalty units.

- (3) However, if the person gave the document to the chief executive with the intent to evade payment of the waste levy, the person is liable to a maximum penalty of—
 - (a) 2 years imprisonment; or
 - (b) whichever is the greater of the following amounts—
 - (i) 2,000 penalty units;
 - (ii) a fine that is twice the waste levy amount the payment of which the person sought to evade, and twice the amount of any interest payable in relation to the failure to pay the waste levy amount by the due date for its payment.
- (4) Subsection (2) does not apply to a person if the person, when giving document—
 - (a) tells the chief executive of the extent to which the document is incomplete; and
 - (b) if the person has, or can reasonably obtain, the complete information—gives the information.
- (5) It is enough for a complaint for an offence against subsection (2) to state the person knew, or ought

reasonably to have known, the document was incomplete, without specifying whether the person knew it was incomplete or whether the person ought reasonably to have known it was incomplete.

18 Amendment of s 271 (Regulation-making power)

(1) Section 271(2)—

insert—

- (f) the recycling efficiency threshold for recycling activities;
- (g) the day, prescribed by regulation, by which the chief executive must review the following—
 - (i) the discounted rate for the waste levy for residue waste;
 - (ii) the recycling efficiency threshold for recycling activities;
 - (iii) any other matters mentioned in chapter 3, part 4 as being prescribed by regulation.

(2) Section 271—

insert—

- (4) Subject to the *National Measurement Act 1960* (Cwlth), a regulation may impose requirements for a weighbridge that are additional to the requirements applying to the weighbridge under another Act or under a law of the Commonwealth.

19 Insertion of new ch 16, pt 3

Chapter 16—

insert—

Part 3

Transitional provisions for Waste Reduction and Recycling (Waste Levy) Amendment Act 2019

Division 1

Exemption from waste levy for particular residue waste during transition period

309 Definitions for division

In this division—

Cairns Bedminster facility means the facility in Cairns for mechanical biological treatment using Bedminster technology to sort non-organic materials from mixed solid waste and compost the remaining organic material through drum composting and maturation.

construction and demolition waste means waste generated as a result of carrying out building work within the meaning of the *Building Act 1975*, section 5.

material recovery facility means a facility for conducting a recycling activity that comprises sorting any waste other than construction and demolition waste, and preparing recyclable waste for marketing to users.

qualifying period means the period starting on 1 July 2018 and ending on the commencement.

transition period means—

-
- (a) for the Cairns Bedminster facility—the period starting on the commencement and ending on 30 June 2026; or
 - (b) otherwise—the period starting on the commencement and ending on 30 June 2022.

transition period exempt residue waste application see section 310(1).

310 Application for approval of residue waste as exempt waste for transition period

- (1) An entity that conducted a recycling activity during the qualifying period may apply to the chief executive for an approval that residue waste identified in the application (a *transition period exempt residue waste application*) is exempt waste for the transition period.
- (2) For an application relating to a material recovery facility, the application must—
 - (a) be made on or before 30 June 2019; and
 - (b) be in the approved form; and
 - (c) be supported by enough information to allow the chief executive to decide the application, including evidence that the applicant conducted a recycling activity during the qualifying period.
- (3) For an application relating to the Cairns Bedminster facility, the application must—
 - (a) be in the approved form; and
 - (b) be supported by enough information to allow the chief executive to decide the application.
- (4) For an application not mentioned in subsection (2) or (3), the application must—

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- (b) be in the approved form; and
- (c) be supported by enough information to allow the chief executive to decide the application, including evidence that—
 - (i) the applicant conducted a recycling activity during the qualifying period; and
 - (ii) payment of the waste levy on the residue waste from the applicant's recycling activity would cause the applicant financial hardship to an extent that would stop its business from operating.

311 Chief executive may require additional information or documents

- (1) Within 28 days after receiving a transition period exempt residue waste application, the chief executive may, by notice given to the applicant, require the applicant to give the chief executive further reasonable information or documents about the application by a reasonable day stated in the notice.
- (2) The application is taken to be withdrawn if the applicant does not give the chief executive the further information or documents by the stated day.

312 Deciding application

- (1) The chief executive must decide either to grant or to refuse a transition period exempt residue waste application within a period that is reasonable in the circumstances.
- (2) In deciding the application, the chief executive must consider the following—

- (a) the objects of this Act;
 - (b) the information included in the application;
 - (c) whether adequate measures will be implemented to progressively minimise the amount of the applicant's residue waste generation;
 - (d) whether adequate measures will be implemented to ensure the applicant will be able to keep conducting the recycling activity after the transition period ends;
 - (e) the applicant's history of compliance with this Act and the Environmental Protection Act, including whether the applicant holds any licences, environmental authorities or other approvals for conducting the recycling activity.
- (3) Also, the chief executive may consult with any expert reference group or other entity the chief executive considers suitable to provide advice in relation to financial hardship.
- (4) The chief executive must not grant the application unless satisfied the applicant conducted a recycling activity during the qualifying period and—
- (a) for a material recovery facility—
 - (i) the applicant's performance history achieves as a minimum the recycling efficiency threshold; or
 - (ii) the strategies or practices proposed in the application to progressively improve the efficiency of the applicant's recycling activity will enable the applicant to achieve as a minimum the recycling efficiency threshold during the period of the exemption; or

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- (b) for the Cairns Bedminster facility—the applicant will be able to achieve as a minimum the recycling efficiency threshold; or
 - (c) for any other applicant—payment of the waste levy on the residue waste from the recycling activity would cause the applicant financial hardship to an extent that would stop its business from operating.
- (5) However, subsection (4)(a) does not apply for a material recovery facility if the chief executive is satisfied that—
- (a) it is not reasonably practical for the applicant to achieve as a minimum the recycling efficiency threshold; and
 - (b) the strategies or practices proposed in the application to progressively improve the efficiency of the applicant’s recycling activity will enable the applicant to achieve a recycling efficiency during the period of the exemption that is as close to the recycling efficiency threshold as is reasonably practical in the circumstances.
- (6) A failure to make a decision within a period that is reasonable in the circumstances is taken to be a decision by the chief executive to refuse the application.
- (7) In this section—
- recycling efficiency threshold*** means—
- (a) for a material recovery facility—85% of the feedstock for a recycling activity is not disposed of as landfill as a result of the activity; or
 - (b) for the Cairns Bedminster facility—33% of the feedstock for a recycling activity is not

disposed of as landfill as a result of the activity.

313 Grant of application

- (1) If the chief executive grants a transition period exempt residue waste application, the chief executive must—
 - (a) in addition to any other conditions, impose a condition on the approval either—
 - (i) requiring the applicant maintain as a minimum a stated recycling efficiency; or
 - (ii) limiting the amount of residue waste that will attract the discount rate in a period, including, for example, as a stated proportion of the amount of waste that is used as feedstock for the recycling activity in the period; and
 - (b) give the applicant notice of the grant stating the following—
 - (i) the application has been granted;
 - (ii) the period for which the residue waste identified in the application is approved to be exempt waste;
 - (iii) any conditions imposed on the approval, including any limits on the types and amounts of residue waste that may be disposed of as exempt waste in the period mentioned in subparagraph (ii);
 - (iv) any conditions prescribed by regulation applying to the approval.
- (2) If the application relates to the Cairns Bedminster facility, the period mentioned in subsection

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(1)(b)(ii) must not be more than 3 years.

- (3) The notice must include or be accompanied by an information notice for the decision to impose a condition unless the condition is the same, or substantially the same, as a condition agreed to or asked for by the applicant.
- (4) The approval is subject to any conditions imposed by the chief executive and any conditions prescribed by regulation.
- (5) In this section—

recycling efficiency means a percentage of the feedstock for a recycling activity that is not disposed of as landfill as a result of the activity.

314 Refusal of application

If the chief executive refuses a transition period exempt residue waste application, the chief executive must give the applicant an information notice for the decision.

315 Cancellation or amendment of approval by chief executive

- (1) The chief executive may cancel or amend an approval that residue waste is exempt waste granted under section 312 if the chief executive considers there are reasonable grounds to cancel or amend it.
- (2) Without limiting subsection (1), the grounds for cancelling or amending the approval may include—
 - (a) that the chief executive is satisfied there is a reasonable suspicion that the approval holder has not implemented strategies or practices to progressively improve the

-
- efficiency of the holder's recycling activities during the period of the approval; and
- (b) that the chief executive is satisfied there is a reasonable suspicion that the application was granted because of a false or misleading representation or declaration; and
 - (c) the circumstances that were relevant to the granting of the application have changed; and
 - (d) that the limits or conditions of the approval have not been complied with; and
 - (e) that it is desirable to cancel the approval having regard to the objects of this Act.
- (3) Before cancelling or amending the approval (the ***proposed action***), the chief executive must give notice to the holder of the approval stating the following—
- (a) the proposed action;
 - (b) the grounds for taking the proposed action;
 - (c) the facts and circumstances that form the basis for the grounds;
 - (d) when the proposed action is intended to take effect;
 - (e) that the holder may make, within a stated period, written submissions to show why the proposed action should not be taken.
- (4) The stated period for submissions must not end earlier than 21 days after the holder of the approval is given the notice.
- (5) The chief executive must consider all submissions made under subsection (3)(e).
- (6) If the chief executive decides to take the proposed action, the chief executive must, within 10 business days after making the decision, give the

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holder of the approval an information notice for the decision.

- (7) The decision takes effect when the information notice is given to the holder of the approval.

316 Automatic cancellation of approval

An approval that residue waste is exempt waste, granted under section 312, is automatically cancelled if the business of conducting the recycling activity relevant to the approval ceases to be owned by the entity granted the approval, including, for example, because ownership of the business is transferred to another entity.

Division 2 Exemption from weighbridge requirements for particular sites until 30 June 2029

317 Application for exemption from s 57 until 30 June 2029

- (1) This section applies to the operator of a levyable waste disposal site in existence at the commencement for which the operator holds an environmental authority for the disposal of not more than 2,000 tonnes of waste in a year at the site.
- (2) The operator may apply to the chief executive for an exemption during the transition period from the requirements under section 57.
- (3) The application must—
 - (a) be made before 1 January 2024; and
 - (b) be in the approved form.

(4) In this section—

transition period means the period starting at the beginning of 1 July 2024 and ending at the end of 30 June 2029.

318 Chief executive may require additional information or documents

- (1) Within 28 days after receiving an application made under section 317, the chief executive may, by notice given to the applicant, require the applicant to give the chief executive further reasonable information or documents about the application by a reasonable day stated in the notice.
- (2) The application is taken to be withdrawn if the applicant does not give the chief executive the further information or documents by the stated day.

319 Deciding application

- (1) The chief executive must decide either to grant or to refuse an application made under section 317 within a period that is reasonable in the circumstances.
- (2) In deciding the application, the chief executive must consider—
 - (a) the objects of this Act; and
 - (b) the information included in the application.
- (3) A failure to make a decision within a period that is reasonable in the circumstances is taken to be a decision by the chief executive to refuse the application.

320 Grant of application

- (1) If the chief executive grants an application made under section 317, the chief executive must give the applicant a notice stating—
 - (a) the application has been granted; and
 - (b) any conditions imposed on the approval.
- (2) Also, if the chief executive imposes a condition on the approval, the notice must include or be accompanied by an information notice for the decision to impose the condition.
- (3) However, subsection (2) does not apply to a condition that is substantially the same as a condition agreed to or asked for by the applicant.

321 Refusal of application

If the chief executive refuses an application made under section 317, the chief executive must give the applicant an information notice for the decision.

Division 3 Other matters

322 Exemption from using weighbridge for stated period in stated circumstances

Until the end of 30 June 2020, the operator of a waste disposal site is not obliged to use a weighbridge to measure waste or other material as required under section 59 if—

- (a) the operator has, before the commencement, given the chief executive written notice that it is not practicable to use the weighbridge to measure and record waste or other material delivered to the site in a vehicle

with a GCM or GVM of 4.5 tonnes or less;
and

- (b) the notice mentioned in paragraph (a) identifies the site and explains the steps the operator is taking to ensure it will be practicable to use the weighbridge to measure and record waste or other material at the site by 1 July 2020; and
- (c) the waste or other material is moved in a vehicle with a GCM or GVM of 4.5 tonnes or less; and
- (d) the operator complies with the weight measurement requirements prescribed by regulation.

323 Volumetric survey of levyable waste disposal site to be carried out within stated period

- (1) Between 1 June 2019 and the end of August 2019, the operator of a levyable waste disposal site in the waste levy zone must—
 - (a) ensure that a volumetric survey is carried out for—
 - (i) each active landfill cell at the site; and
 - (ii) all stockpiled waste at the site; and
 - (b) give the chief executive a copy of the results of the survey in the approved form.

Maximum penalty—200 penalty units.

- (2) The volumetric survey must be carried out in compliance with the requirements prescribed by regulation.
- (3) The results of the volumetric survey must—
 - (a) be in electronic form; and

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- (b) include a topographical plan complying with specifications advised by the chief executive; and
 - (c) include details of the following—
 - (i) the area of the levyable waste disposal site;
 - (ii) the site's landfill capacity;
 - (iii) the stockpiles of waste at the site; and
 - (d) be certified as accurate by a surveyor under the *Surveyors Act 2003*.
- (4) After carrying out the volumetric survey under this section, the operator must ensure that a copy of the results of the survey is kept as a document in hard copy form at the levyable waste disposal site for at least 5 years after the survey is carried out.
- Maximum penalty—200 penalty units.
- (5) Subsections (6) and (7) apply if the operator of a levyable waste disposal site fails to comply with subsection (1).
 - (6) The chief executive may arrange for the volumetric survey to be carried out at the site and for that purpose may direct an authorised person to enter the site and carry out the survey.
 - (7) The chief executive may recover the cost of carrying out the volumetric survey from the operator as a debt payable by the operator to the State.

324 Volumetric survey of resource recovery area to be carried out within stated period

- (1) Between 1 June 2019 and the end of August 2019, the entity having responsibility for the operation of a resource recovery area for a waste disposal

site in the waste levy zone must—

- (a) ensure that a volumetric survey is carried out for all stockpiled waste at the area; and
- (b) give the chief executive a copy of the results of the survey in the approved form.

Maximum penalty—200 penalty units.

- (2) The volumetric survey must be carried out in compliance with the requirements prescribed by regulation.
- (3) The results of the volumetric survey must—
 - (a) be in electronic form; and
 - (b) include a topographical plan complying with specifications advised by the chief executive; and
 - (c) include details of the following—
 - (i) the area of the resource recovery area;
 - (ii) the stockpiles of waste at the area; and
 - (d) be certified as accurate by a surveyor under the *Surveyors Act 2003*.
- (4) After carrying out the volumetric survey under this section, the entity must ensure that a copy of the results of the survey is kept as a document in hard copy form at the levyable waste disposal site for at least 5 years after the survey is carried out.

Maximum penalty—200 penalty units.

- (5) Subsections (6) and (7) apply if an entity having responsibility for the operation of a resource recovery area fails to comply with subsection (1).
- (6) The chief executive may arrange for the volumetric survey to be carried out at the resource recovery area and for that purpose may direct an authorised person to enter the area and carry out the survey.

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- (7) The chief executive may recover the cost of the volumetric survey from the entity as a debt payable by the entity to the State.

325 Temporary relaxation from s 59 measuring requirements for small site

Until the end of 30 June 2021, the operator of a small site is not obliged to measure waste as required under section 59 if—

- (a) the operator has, before the commencement, given the chief executive written notice of a proposed alternative methodology for measuring and recording waste at the site; and
- (b) the notice mentioned in paragraph (a) identifies the site and includes details of the proposed alternative methodology; and
- (c) the proposed alternative methodology enables the operator to fairly work out the total of the waste levy amount owing to the chief executive on waste delivered, or moved from stockpile to landfill, at the site; and
- (d) the operator is implementing the alternative methodology in accordance with its terms.

20 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *clean earthen material*, *recycling activity*, *reporting period*, *Waste and Environment Fund*, *waste data return* and *weighbridge requirement provision*—
omit.
- (2) Schedule—
insert—

acid sulfate soil means soil or sediment

containing iron sulfides that produces sulphuric acid when exposed to air.

active landfill cell see section 26.

bad debt credit, for chapter 3, see section 72K(1).

bad debt credit application, for chapter 3, see section 26.

clean earth—

- (a) means earth that is not contaminated with waste or otherwise contaminated with a hazardous contaminant; but
- (b) does not include acid sulphate soil, other than acid sulphate soil that—
 - (i) is not contaminated with waste, or otherwise contaminated with a hazardous contaminant, other than naturally occurring iron sulfides that produce sulphuric acid when exposed to air; and
 - (ii) has been treated in accordance with best practice environmental management, within the meaning of the Environmental Protection Act, section 21, for the treatment and management of acid sulfate soils, as stated in a guideline prescribed by regulation.

contaminated land register see the Environmental Protection Act, schedule 4.

disaster, for chapter 3, see section 26.

disaster management waste, for chapter 3, see section 26.

disaster situation, for chapter 3, see section 26.

discounted rate, for the waste levy for residue waste, see section 44(4).

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dredge spoil, for chapter 3, see section 26.

due date for payment, of a waste levy amount, for chapter 3, see section 26.

earth means natural materials such as clay, gravel, sand, soil and rock.

environmental management register see the Environmental Protection Act, schedule 4.

exempt waste see section 26.

exempt waste application, for chapter 3, see section 26.

feedstock, for a recycling activity, for chapter 3, see section 26.

friable asbestos-containing material, for chapter 3, see section 26.

hazardous contaminant see the Environmental Protection Act, schedule 4.

lawfully managed and transported, for asbestos or waste containing asbestos, for chapter 3, see section 26.

levyable waste, for chapter 3, see section 26.

levyable waste disposal site see section 26.

levy period, for chapter 3, see section 26.

monitoring system, for chapter 3, see section 62.

non-friable asbestos-containing material, for chapter 3, see section 26.

non-levy zone see section 26.

progressive capping, for chapter 3, see section 26.

recycling activity includes—

- (a) re-using waste resources; and
- (b) recycling waste resources to make the same or different products; and

(c) recovering waste resources, including extracting energy from those resources.

recycling efficiency threshold means the percentage of feedstock used for a recycling activity that is not disposed of as landfill as a result of the activity.

residue waste see section 26.

residue waste discounting application, for chapter 3, see section 44(1).

resource recovery area see section 72R.

section 325 small site, for chapter 3, see section 26.

serious local event, for chapter 3, see section 26.

serious local event waste, for chapter 3, see section 26.

small site see section 26.

waste data return, for chapter 3, see section 72(1).

waste levy see section 36.

waste levy amount see section 26.

waste levy instalment agreement, for chapter 3, see section 72B(1).

waste levy zone see section 26.

weight measurement criteria, for chapter 3, see section 26.

(3) Schedule, definition *waste facility*, paragraph 2—
omit, insert—

2 However, a *waste facility* does not include any of the following facilities—

(a) a facility that is lawfully operated for the sole purpose of disposing of waste

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generated by an environmentally relevant activity carried out under the Environmental Protection Act if—

- (i) the waste is or was generated only by, and its generation is or was ancillary to, the operation of the activity; and
 - (ii) the activity is not a waste management ERA; and
 - (iii) the facility is operated by or for the entity carrying out the activity; and
 - (iv) the facility is authorised under the same environmental authority as the activity;
- (b) a facility that is lawfully operated for the sole purpose of disposing of waste generated by 1 or more resource activities carried out under the Environmental Protection Act if—
- (i) the waste is or was generated only by, and its generation is or was ancillary to, the operation of 1 or more of the resource activities; and
 - (ii) the facility is operated by or for an entity carrying out 1 or more of the resource activities; and
 - (iii) the facility is authorised under the same environmental authority as 1 of the resource activities;
- (c) a facility that is lawfully operated for the sole purpose of disposing of waste generated by the processing, handling, storage or transport of materials from a

resource activity carried out under the Environmental Protection Act if—

- (i) the waste is or was generated only by, and its generation is or was ancillary to, the processing, handling, storage or transport of the materials from the resource activity; and
 - (ii) the facility is operated by or for the entity carrying out the resource activity; and
 - (iii) the facility is authorised under the same environmental authority as the resource activity;
- (d) a facility that is lawfully operated for the sole purpose of disposing of waste generated to remediate contaminated land recorded in the environmental management register or contaminated land register if—
- (i) the waste was generated by an activity (the *initial activity*) lawfully carried out on the contaminated land before the initial activity became an environmentally relevant activity under the Environmental Protection Act (the *relevant activity*); and
 - (ii) from the day the initial activity became the relevant activity, the waste is or was generated by the relevant activity carried out on the contaminated land; and
 - (iii) all of the following apply—

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- (A) the waste is or was generated only by, and its generation is or was ancillary to, the operation of the initial activity or relevant activity;
 - (B) the relevant activity is not a resource activity under the Environmental Protection Act or a waste management ERA;
 - (C) the facility is operated by or for the entity carrying out the relevant activity;
 - (D) the facility is authorised under the same environmental authority as the relevant activity.
- (4) Schedule, definition *waste management ERA*, paragraphs (b) to (m)—
- omit, insert—*
- (b) mechanically crushing, milling, grinding, shredding or sorting waste;
 - (c) mechanically reprocessing waste;
 - (d) battery recycling;
 - (e) composting organic material, anaerobically digesting organic material or manufacturing soil conditioner;
 - (f) waste reprocessing or treatment;
 - (g) waste storage;
 - (h) regulated waste transport;
 - (i) regulated waste treatment;
 - (j) tyre recycling;
 - (k) waste disposal;

- (l) waste incineration, thermal waste reprocessing or thermal treatment;
- (m) operating a waste transfer station or resource recovery facility;
- (n) maintaining a decommissioned waste disposal facility.

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