



Queensland

# Planning (Container Refund Scheme) Amendment Regulation 2018

## Subordinate Legislation 2018 No. 146

made under the

*Planning Act 2016*

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**1 Short title**

This regulation may be cited as the *Planning (Container Refund Scheme) Amendment Regulation 2018*.

**2 Regulation amended**

This regulation amends the *Planning Regulation 2017*.

**3 Insertion of new pt 3A**

After part 3—

*insert—*

**Part 3A Minor changes of use**

**17A Minor changes of use—Act, s 284**

For section 284(2)(a) of the Act, schedule 5A, parts 2 and 3 prescribes minor changes of use that are not a material change of use for particular premises.

**17B Expiry of provisions**

The following provisions expire on 1 May 2019—

- (a) this part;
- (b) schedules 5A and 5B;
- (c) schedule 24, definitions *change of use*, *commercial character building*, *container*, *container refund depot*, *container refund drop off*, *container refund scheme*, *operating hours*, *prescribed industrial premises*, *prescribed retail premises*, *refund amount*, *relevant industrial use*, *relevant retail use* and *retail use*.

## 4 Insertion of new schedules 5A and 5B

After schedule 5—

*insert—*

# Schedule 5A Minor changes of use

section 17A

## Part 1 Interpretation

### 1 Definitions for schedule

In this schedule—

*change of use*, of premises, means—

- (a) the start of a new use of the premises; or
- (b) the re-establishment on the premises of a use that has been abandoned; or
- (c) a material increase in the intensity or scale of the use of the premises.

*commercial character building* means a building that is a commercial character building under the Brisbane City Plan 2014, made by the Brisbane City Council, as in force from time to time.

*operating hours* means—

- (a) for prescribed retail premises or premises to which section 3 applies—
  - (i) if a development approval in effect in relation to the premises states operating hours for the premises—the operating hours stated in the development approval; or
  - (ii) if subparagraph (i) does not apply and a planning scheme applying to the premises states operating hours for a

relevant retail use on the premises—the operating hours for the relevant retail use stated in the planning scheme; or

- (iii) if subparagraphs (i) and (ii) do not apply—from 8a.m. to 5p.m. on a business day or a Saturday; or
- (b) for prescribed industrial premises or premises to which section 5 applies—
  - (i) if a development approval in effect in relation to the premises states operating hours for the premises—the operating hours stated in the development approval; or
  - (ii) if subparagraph (i) does not apply and a planning scheme applying to the premises states operating hours for a relevant industrial use on the premises—the operating hours for the relevant industrial use stated in the planning scheme; or
  - (iii) if subparagraphs (i) and (ii) do not apply—from 8a.m. to 5p.m. on a business day or a Saturday.

***prescribed industrial premises*** see section 4(1).

***prescribed retail premises*** see section 2(1).

***refund amount*** see the *Waste Reduction and Recycling Act 2011*, section 99K.

***relevant industrial use***, on premises, means—

- (a) if the premises are being used for a medium impact industry—the medium impact industry; or
- (b) otherwise—a low impact industry.

***relevant retail use***, on premises, means—

- (a) if the premises are being used for a retail use—the retail use; or

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(b) otherwise—a shop.

*retail use* means—

- (a) a shop; or
- (b) a shopping centre; or
- (c) a showroom; or
- (d) a service station.

## **Part 2                      Change of use of particular retail premises for container refund scheme**

### **2    Change of use of prescribed retail premises for container refund scheme**

- (1) This section applies to premises mentioned in schedule 5B, part 1, table, column 1 (the *prescribed retail premises*).
- (2) A change of use of the prescribed retail premises that involves a use mentioned in schedule 5B, part 1, table, column 2 for the premises is a minor change of use that is not a material change of use if—
  - (a) the use involves a person returning containers in exchange for the person or another person receiving a refund amount under the container refund scheme; and
  - (b) the use, other than the transfer of the containers from the premises, is carried out inside an existing building; and
  - (c) the return of the containers happens only during the operating hours for the premises; and

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- (d) the transfer by vehicle of the containers from the premises happens only—
    - (i) if a development approval in effect in relation to the premises states that goods may be transferred by vehicle from the premises only during a particular period—during that period; or
    - (ii) if subparagraph (i) does not apply and the planning scheme applying to the premises states that goods may be transferred by vehicle from a relevant retail use on the premises only during a particular period—during that period; or
    - (iii) if subparagraphs (i) and (ii) do not apply—during the operating hours for the premises; and
  - (e) the noise levels generated by the carrying out of all uses on the premises comply with—
    - (i) if a development approval in effect in relation to the premises includes a condition about noise levels on the premises—the condition; or
    - (ii) if subparagraph (i) does not apply and a local law includes a requirement about noise levels that applies to a relevant retail use on the premises—the requirement in the local law; or
    - (iii) if subparagraphs (i) and (ii) do not apply and the planning scheme applying to the premises includes a requirement about noise levels that applies to a relevant retail use on the premises—the requirement in the planning scheme; or

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- (iv) if subparagraphs (i) to (iii) do not apply—the acoustic quality objectives under the *Environmental Protection (Noise) Policy 2008*, schedule 1; and
- (f) the number of car parking spaces on the premises—
  - (i) if a development approval in effect in relation to the premises contains a requirement about car parking spaces on the premises—complies with the requirement in the development approval; or
  - (ii) if subparagraph (i) does not apply and the planning scheme applying to the premises includes a requirement about car parking spaces for a relevant retail use on the premises—complies with the requirement in the planning scheme; or
  - (iii) if subparagraphs (i) and (ii) do not apply—is 1 or more; and
- (g) a notice has been given to the local government for the local government area in which the premises are located at least 10 business days before the change of use happens, stating—
  - (i) the address of the premises; and
  - (ii) the contact details of the person responsible for managing the use; and
  - (iii) a description of the existing use of the premises; and
  - (iv) a description of the change of use; and
- (h) any approvals required under the *Transport Infrastructure Act 1994*, section 33 or 62 for a new or changed access between the



premises and a State-controlled road are in effect.

### **3 Change of use of other premises for container refund scheme**

(1) This section applies to premises, other than prescribed retail premises, that—

(a) are used for a retail use or contain a building that has been used for a commercial use; and

*Example of a building that has been used for a commercial use—*

a building that was used for a physiotherapy clinic or a shop but is currently vacant

(b) are included in—

(i) a centre zone under a local categorising instrument; or

(ii) a prescribed zone under a local categorising instrument; and

(c) are not a local heritage place or a State heritage place; and

(d) are not—

(i) within 25m of a State transport corridor; or

(ii) a future State transport corridor; or

(iii) adjacent to a road that intersects with a State-controlled road or within 100m of the intersection; and

(e) if the premises are used for a service station or are included in a prescribed zone under a local categorising instrument—are at least 150m from a residential zone; and

(f) if the premises are located in the local government area of the Brisbane City

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Council—do not contain a commercial character building.

- (2) A change of use of the premises that involves the collection, counting, handling, sorting, aggregating, storing or transfer of containers for the container refund scheme is a minor change of use that is not a material change of use if—
- (a) the use involves a person returning the containers in exchange for the person or another person receiving a refund amount under the container refund scheme; and
  - (b) the use, other than the transfer of the containers from the premises, is carried out inside an existing building; and

*Example of a use carried out inside an existing building—*

the collection of containers at a dedicated collection counter in an existing building that contains a shop

- (c) the building does not contain a dwelling; and
- (d) the return of containers happens only during the operating hours for the premises; and
- (e) the transfer by vehicle of the containers from the premises happens only—
  - (i) if a development approval in effect in relation to the premises states that goods may be transferred by vehicle from the premises only during a particular period—during that period; or
  - (ii) if subparagraph (i) does not apply and the planning scheme applying to the premises states that goods may be transferred by vehicle from a relevant retail use on the premises only during a

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- particular period—during that period;  
or
- (iii) if subparagraphs (i) and (ii) do not apply—during the operating hours for the premises; and
- (f) the noise levels generated by the carrying out of all uses on the premises comply with—
- (i) if a development approval in effect in relation to the premises includes a condition about noise levels on the premises—the condition; or
- (ii) if subparagraph (i) does not apply and a local law includes a requirement about noise levels that applies to a relevant retail use on the premises—the requirement in the local law; or
- (iii) if subparagraphs (i) and (ii) do not apply and the planning scheme applying to the premises includes a requirement about noise levels that applies to a relevant retail use on the premises—the requirement in the planning scheme; or
- (iv) if subparagraphs (i) to (iii) do not apply—the acoustic quality objectives under the *Environmental Protection (Noise) Policy 2008*, schedule 1; and
- (g) the number of car parking spaces on the premises—
- (i) if a development approval in effect in relation to the premises contains a requirement about car parking spaces on the premises—complies with the requirement in the development approval; or

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- (ii) if subparagraph (i) does not apply and the planning scheme applying to the premises includes a requirement about car parking spaces for a relevant retail use on the premises—complies with the requirement in the planning scheme; or
    - (iii) if subparagraphs (i) and (ii) do not apply—is 1 or more; and
  - (h) a notice has been given to the local government for the local government area in which the premises are located at least 10 business days before the change of use happens, stating—
    - (i) the address of the premises; and
    - (ii) the contact details of the person responsible for managing the use; and
    - (iii) a description of the existing use of the premises; and
    - (iv) a description of the change of use.
- (3) In this section—
- centre zone*** means—
- (a) any of the following zones stated in schedule 2—
    - (i) centre zone;
    - (ii) district centre zone;
    - (iii) local centre zone;
    - (iv) major centre zone;
    - (v) mixed use zone;
    - (vi) principal centre zone; or
  - (b) a zone, other than a zone stated in schedule 2, that is of a substantially similar type to a zone stated in paragraph (a).

*prescribed zone* means—

- (a) any of the following zones stated in schedule 2—
  - (i) community facilities zone;
  - (ii) neighbourhood centre zone;
  - (iii) special purpose zone;
  - (iv) specialised centre zone; or
- (b) a zone, other than a zone stated in schedule 2, that is of a substantially similar type to a zone stated in paragraph (a).

## **Part 3                      Change of use of particular industrial premises for container refund scheme**

### **4    Change of use of prescribed industrial premises for container refund scheme**

- (1) This section applies to premises mentioned in schedule 5B, part 2, table, column 1 (the *prescribed industrial premises*).
- (2) A change of use of the prescribed industrial premises that involves a use mentioned in schedule 5B, part 2, table, column 2 for the premises is a minor change of use that is not a material change of use if—
  - (a) the use involves a person returning containers in exchange for the person or another person receiving a refund amount under the container refund scheme; and
  - (b) the use, other than the transfer of the containers from the premises, is carried out inside an existing building; and

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- (c) the return of the containers happens only during the operating hours for the premises; and
- (d) the transfer by vehicle of the containers from the premises happens only—
  - (i) if a development approval in effect in relation to the premises states that goods may be transferred by vehicle from the premises only during a particular period—during that period; or
  - (ii) if subparagraph (i) does not apply and the planning scheme applying to the premises states that goods may be transferred by vehicle from a relevant industrial use on the premises only during a particular period—during that period; or
  - (iii) if subparagraphs (i) and (ii) do not apply—during the operating hours for the premises; and
- (e) the noise levels generated by the carrying out of all uses on the premises comply with—
  - (i) if a development approval in effect in relation to the premises includes a condition about noise levels on the premises—the condition; or
  - (ii) if subparagraph (i) does not apply and a local law includes a requirement about noise levels that applies to a relevant industrial use on the premises—the requirement in the local law; or
  - (iii) if subparagraphs (i) and (ii) do not apply and the planning scheme applying to the premises includes a requirement about noise levels that

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- applies to a relevant industrial use on the premises—the requirement in the planning scheme; or
- (iv) if subparagraphs (i) to (iii) do not apply—the acoustic quality objectives under the *Environmental Protection (Noise) Policy 2008*, schedule 1; and
- (f) the number of car parking spaces on the premises—
- (i) if a development approval in effect in relation to the premises contains a requirement about car parking spaces on the premises—complies with the requirement in the development approval; or
- (ii) if subparagraph (i) does not apply and the planning scheme applying to the premises includes a requirement about car parking spaces for a relevant industrial use on the premises—complies with the requirement in the planning scheme; or
- (iii) if subparagraphs (i) and (ii) do not apply—is 1 or more; and
- (g) a notice has been given to the local government for the local government area in which the premises are located at least 10 business days before the change of use happens, stating—
- (i) the address of the premises; and
- (ii) the contact details of the person responsible for managing the use; and
- (iii) a description of the existing use of the premises; and
- (iv) a description of the change of use; and

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- (h) any approvals required under the *Transport Infrastructure Act 1994*, section 33 or 62 for a new or changed access between the premises and a State-controlled road are in effect.

## **5 Change of use of other premises for container refund scheme**

- (1) This section applies to premises, other than prescribed industrial premises, that—
  - (a) are used for a low impact industry or a medium impact industry, or have been used for a commercial use or an industry activity; and
  - (b) are included in—
    - (i) an industry zone under a local categorising instrument; or
    - (ii) another area under a local categorising instrument, if the purpose of the area is to provide specifically for low impact industry or medium impact industry or both; and

*Example—*

  - a precinct under a local categorising instrument that is for the purpose of providing for a variety of low impact industries
  - (c) are not a local heritage place or a State heritage place; and
  - (d) are not—
    - (i) within 25m of a State transport corridor; or
    - (ii) a future State transport corridor; or



- (iii) adjacent to a road that intersects with a State-controlled road or within 100m of the intersection; and
  - (e) if the premises are located in the local government area of the Brisbane City Council—do not contain a commercial character building.
- (2) A change of use of the premises that involves the collection, receiving, sorting, counting, aggregating, storing, handling, distributing, crushing, compounding or transferring of containers for the container refund scheme is a minor change of use that is not a material change of use if—
  - (a) the use involves a person returning the containers in exchange for the person or another person receiving a refund amount under the container refund scheme; and
  - (b) the use, other than the transfer of the containers from the premises, is carried out inside an existing building; and
  - (c) the transfer by vehicle of the containers from the premises happens only—
    - (i) if a development approval in effect in relation to the premises states that goods may be transferred by vehicle from the premises only during a particular period—during that period; or
    - (ii) if subparagraph (i) does not apply and the planning scheme applying to the premises states that goods may be transferred by vehicle from a relevant industrial use on the premises only during a particular period—during that period; or

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- (iii) if subparagraphs (i) and (ii) do not apply—during the operating hours for the premises; and
- (d) the return of containers happens only during the operating hours for the premises; and
- (e) the number of car parking spaces on the premises—
  - (i) if a development approval in effect in relation to the premises contains a requirement about car parking spaces on the premises—complies with the requirement in the development approval; or
  - (ii) if subparagraph (i) does not apply and the planning scheme applying to the premises includes a requirement about car parking spaces for a relevant industrial use on the premises—complies with the requirement in the planning scheme; or
  - (iii) if subparagraphs (i) and (ii) do not apply—is 1 or more; and
- (f) all of the uses on the premises comply with—
  - (i) if the premises are being used for a low impact industry—the thresholds for the activity mentioned in schedule 24, definition *low impact industry*, paragraph (c); or
  - (ii) if the premises are being used for a medium impact industry—the thresholds for the activity mentioned in schedule 24, definition *medium impact industry*, paragraph (c); or
  - (iii) if subparagraphs (i) and (ii) do not apply—the thresholds for the use

mentioned in schedule 24, definition *low impact industry*, paragraph (c); and

- (g) a notice has been given to the local government for the local government area in which the premises are located at least 10 business days before the change of use happens, stating—
  - (i) the address of the premises; and
  - (ii) the contact details of the person responsible for managing the use; and
  - (iii) a description of the existing use of the premises; and
  - (iv) a description of the change of use.
- (3) In this section—

*industry zone* means—

- (a) either of the following zones stated in schedule 2—
  - (i) low impact industry zone;
  - (ii) medium impact industry zone; or
- (b) a zone, other than a zone stated in schedule 2, that is of a substantially similar type to a zone stated in paragraph (a).

## **Schedule 5B Prescribed retail premises and prescribed industrial premises**

schedule 5A

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## Part 1                      Prescribed retail premises

<b>Premises</b>	<b>Use</b>
Lot 17 on plan W75348	container refund drop off
Lot 4 on plan WD6727	container refund drop off
Lots 3 and 4 on RP13345	container refund drop off
Lot 45 on RP203644	container refund depot
Lot 89 on SP147971	container refund depot
Lot 292 on SP236009	container refund depot
Lot 660 on RP892974	container refund drop off
Lot 2 on RP801024	container refund drop off
Lot 22 on RP36989	container refund drop off
Lot 1 on RP732245	container refund drop off
Lot 10 on SP160051	container refund drop off
Lot 1 on SP139501	container refund drop off
Lots 0, 2, 4, 11 and 12 on GTP1626	container refund drop off
Lot 3 on SP163203	container refund drop off
Lots 0 and 17 on BUP7542	container refund drop off
Lot 50 on SP144094	container refund drop off
Lots 0 and 3 on SP106395	container refund drop off
Lot 1 on RP199859	container refund drop off
Lot 59 on RP849214	container refund drop off
Lots 1 and 2 on RP807505	container refund drop off
Lot 1 on RP734446	container refund drop off

<b>Premises</b>	<b>Use</b>
Lot 4 on SP188478	container refund drop off
Lot 1 on RP866274	container refund drop off
Lot 901 on SP156333	container refund depot
Lot 3 on RP712002	container refund drop off
Lot 6 on plan I28115	container refund drop off
Lot 3 on SP182339	container refund drop off
Lot 51 on SP289842	container refund drop off
Lot 5 on RP21820	container refund drop off
Lot 1 on RP192170	container refund drop off
Lot 1 on SP125898	container refund drop off
Lot 7 on RP167434	container refund depot
Lot 11 on RP121394	container refund drop off
Lot 25 on SP223783	container refund depot
Lot 35 on CP846028	container refund drop off
Lot 14 on SP201379	container refund drop off
Lot 1 on RP151153	container refund drop off
Lots 1 and 2 on RP701662	container refund drop off
Lots 0 and 1 on GTP104418	container refund drop off
Lots 1 and 27 on SP207160	container refund drop off
Lot 1 on RP20097	container refund drop off
Lot 68 on RP143578	container refund drop off
Lot 5 on RP208585	container refund drop off
Lot 120 on SP273615	container refund depot
Lot 11 on RP147632	container refund drop off

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<b>Premises</b>	<b>Use</b>
Lot 66 on plan B1586	container refund drop off
Lot 12 on SP250128	container refund drop off
Lots 5 and 6 on RP5889	container refund drop off
Lot 21 on RP884200	container refund drop off
Lot 22 on plan C198125	container refund drop off
Lot 1 on RP160205	container refund drop off
Lots 0 and 1 on GTP1843	container refund drop off
Lot 1 on RP806451	container refund drop off
Lot 1 on RP815069	container refund drop off
Lot 3 on SP138208	container refund drop off
Lots 0 and 1 on BUP10151	container refund drop off
Lot 4 on RP127716	container refund drop off
Lot 6 on SP216003	container refund drop off

**Part 2                      Prescribed industrial premises**

<b>Premises</b>	<b>Use</b>
Lots 2 to 4 on SP222811	container refund depot
Lot 65 on SP254493	container refund depot
Lot 1 on RP730661	container refund depot
Lot 2 on SP142884	container refund depot
Lot 2 on RP905780	container refund depot
Lot 25 on RP161447	container refund depot
Lots 1 to 4 on RP69713	container refund depot
Lot 6 on RP146739	container refund depot
Lots 1 to 4 on RP83497	container refund depot
Lots 3, 4 and 25 to 30 on RP37692	container refund depot
Lot 2 on RP178370	container refund depot
Lot 5 on SP197874	container refund drop off
Lot 10 on RP905843	container refund drop off
Lot 408 on plan D1018	container refund drop off
Lot 1 on MPH31732	container refund depot
Lot 197 on SP159700	container refund depot
Lot 2 on SP259642	container refund drop off
Lots 4 and 16 on SP264152	container refund drop off
Lot 6 on plan T118601	container refund drop off
Lots 0 and 2 on GTP3987	container refund drop off
Lot 7 on plan T118643	container refund drop off
Lot 1 on RP176236	container refund drop off
Lot 2 on RP209933	container refund drop off

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Premises	Use
Lot 24 on SP118750	container refund drop off

## 5 Amendment of sch 24 (Dictionary)

Schedule 24—

*insert—*

***change of use***, for schedule 5A, see schedule 5A, part 1, section 1.

***commercial character building***, for schedule 5A, see schedule 5A, part 1, section 1.

***container***, in relation to the container refund scheme, see the *Waste Reduction and Recycling Act 2011*, section 99M.

***container refund depot*** means the use of premises for the collection, receiving, sorting, counting, aggregating, storing, handling, distributing, crushing, compounding or transferring of containers for the container refund scheme.

***container refund drop off*** means the collection, receiving, sorting, counting, aggregating, storing, handling or transferring of containers for the container refund scheme.

***container refund scheme*** see the *Waste Reduction and Recycling Act 2011*, schedule.

***operating hours***, for schedule 5A, see schedule 5A, part 1, section 1.

***prescribed industrial premises*** see schedule 5A, part 3, section 4(1).

***prescribed retail premises*** see schedule 5A, part 2, section 2(1).

***refund amount***, for schedule 5A, see schedule 5A, part 1, section 1.

***relevant industrial use***, for schedule 5A, see



schedule 5A, part 1, section 1.

*relevant retail use*, for schedule 5A, see schedule 5A, part 1, section 1.

*retail use*, for schedule 5A, see schedule 5A, part 1, section 1.

ENDNOTES

- 1 Made by the Governor in Council on 13 September 2018.
- 2 Notified on the Queensland legislation website on 14 September 2018.
- 3 The administering agency is the Department of State Development, Manufacturing, Infrastructure and Planning.

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