



*Waste Reduction and Recycling Act 2011*

# **Waste Reduction and Recycling Regulation 2011**

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Queensland

# Waste Reduction and Recycling Regulation 2011

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# Waste Reduction and Recycling Regulation 2011

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Waste Reduction and Recycling Regulation 2011*.

### 2 Commencement

- (1) The following provisions commence on 1 December 2011—
  - (a) part 3, divisions 3, 4, 5, 6 and 7;
  - (b) parts 4, 5 and 8;
  - (c) schedules 4, 5, 6, and 9, parts 2 and 3.
- (2) Schedule 9, part 1, commences on 2 December 2011.

### 3 Definitions

The dictionary in schedule 9 defines particular words used in this regulation.

## Part 2 Types of waste

### 6 Regulated waste

For the Act, schedule, definition regulated waste, waste is prescribed as regulated waste if it is regulated waste under the Environmental Protection Regulation 2008.

## **Part 2A**                      **Designation of areas by local governments for general or green waste collection**

### **7**                      **Designation of areas**

A local government may—

- (a) by resolution, designate areas within its local government area in which the local government may conduct general waste or green waste collection; and
- (b) decide the frequency of general waste or green waste collection in the designated areas.

*Note—*

If a local government conducts general waste or green waste collection as a significant business activity, see the *Local Government Act 2009*, chapter 3, part 2, division 2 (Business reform, including competitive neutrality) and the *City of Brisbane Act 2010*, chapter 3, part 3, division 2 (Business reform, including competitive neutrality).

## **Part 3**                      **Obligations of operators of waste disposal sites**

### **Division 1**                      **Weighbridges**

#### **8**                      **Weighbridge requirement provision—Act, s 43**

- (1) For section 43(1) of the Act, each waste disposal site located in the local government area for a local government mentioned in schedule 5 is prescribed.
- (2) For section 43(2) of the Act, the prescribed day for installing a weighbridge at a waste disposal site is—
  - (a) if section 43(2) of the Act applies to the site on or before 31 December 2014—31 December 2014; or



- (b) if section 43(2) of the Act starts applying to the site after 31 December 2014—the day that is within 1 year after the day the section starts applying to the site.

## **Division 2                      Waste data returns**

### **9                      Prescribed waste disposal sites—Act, s 52**

For section 52(1) of the Act, all waste disposal sites are prescribed.

### **10                      Prescribed day for giving waste data return—Act, s 52**

For section 52(2) of the Act, the day prescribed for an operator of a waste disposal site to give the chief executive a waste data return for a reporting period is—

- (a) for a relevant schedule 5 site—the last business day of the month immediately following the end of the reporting period for the site; or
- (b) for another waste disposal site—the last business day in the month of July occurring immediately after the end of the reporting period for the site.

### **11                      Reporting period—Act, s 52**

For section 52(2) of the Act—

- (a) each of the following periods in a financial year is prescribed as a reporting period for a relevant schedule 5 site—
  - (i) 1 July to 30 September;
  - (ii) 1 October to 31 December;
  - (iii) 1 January to 31 March;
  - (iv) 1 April to 30 June; and



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## Part 5 Reporting about waste management

### 40 Prescribed sector of reporting entities—Act, s 150

For the Act, section 150(2), the following sectors of entities are prescribed for a financial year—

- (a) entities carrying out a recycling activity during the financial year;
- (b) entities required, during the financial year, to hold an environmental authority under the *Environmental Protection Act 1994* for any of the following activities—
  - (i) crushing, milling, grinding or screening;
  - (ii) regulated waste recycling or reprocessing;
  - (iii) regulated waste treatment;
  - (iv) waste incineration and thermal treatment;
  - (v) waste transfer station operation;
- (c) waste facilities required, during the financial year, to hold an environmental authority under the *Environmental Protection Act 1994* for the disposal of waste at the facility.

### 41 Prescribed threshold for reporting entities—Act, s 150

- (1) For the Act, section 150(4)(a), the threshold prescribed is that an entity received, sorted, recycled, treated or disposed of at least 1000 tonnes of waste in the financial year immediately preceding the reporting year.
- (2) In this section—

***reporting year*** means a financial year for which a reporting entity has an obligation to give the chief executive a report in compliance with the requirements under chapter 7, part 2, division 2 of the Act.

## **Part 5A                      Used packaging materials**

### **Division 1                      Preliminary**

#### **Subdivision 1                General**

##### **41A    Purpose of pt 5A**

The purpose of this part is to give effect to, and enforce compliance with, the measure.

#### **Subdivision 2                Interpretation**

##### **41B    Definitions for pt 5A**

In this part—

*brand owner* means—

- (a) a person who is the owner or licensee in Australia of a trade mark under which a product is sold or otherwise distributed in Australia, whether the trade mark is registered or not; or
- (b) a person who is the franchisee in Australia of a business arrangement that allows an individual, partnership or company to operate under the name of an already established business; or
- (c) for a product that has been imported—the first person to sell the product in Australia; or
- (d) for in-store packaging—the supplier of the packaging to the retailer; or
- (e) an importer or Australian manufacturer of plastic bags, or a retailer who supplies a plastic bag to a consumer for the transportation of products bought by consumers at the point of sale.

***complying brand owner*** see section 41C.

***consumer packaging*** means all packaging products made of any material, or combination of materials, for the containment, protection, marketing or handling of consumer products, and includes distribution packaging.

***consumer packaging material*** see section 41D.

***covenant*** means—

- (a) the ‘Australian Packaging Covenant’ made between governments and industry organisations to reduce the environmental impacts of consumer packaging; and
- (b) the annexures and schedules to the document mentioned in paragraph (a).

***covenant signatory*** means a signatory to the covenant, and includes a person that accedes to the covenant after it is made, whether before or after the commencement of this part.

***distribution packaging*** means all packaging that contains multiples of products (the same or mixed) intended for direct consumer sale, including—

- (a) secondary packaging used to secure or unitise multiples of consumer products including, for example, cardboard boxes and shrink film overwrap; or
- (b) tertiary packaging used to secure or unitise multiples of secondary packaging including, for example, pallet wrapping stretch film, shrink film and strapping.

***free rider*** means a brand owner who is part of the packaging chain but is not a covenant signatory or is not producing equivalent outcomes to those achieved through the covenant.

***kerbside recycling collection*** means roadside collection of domestic solid waste separated for recycling.

***local government recycling provider*** see section 41Q(1).

***measure*** means the *National Environment Protection (Used Packaging Materials) Measure 2011* dated 16 September 2011 made under the *National Environment Protection Council Act 1994* (Cwlth), the *National Environment*

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*Protection Council (Queensland) Act 1994* and particular Acts of other States.

**packaging chain** means the linkages among materials suppliers, packaging manufacturers, packaging fillers, wholesalers, retailers and consumers of packaged products.

**plastic bag** includes a single use lightweight plastic carry bag containing virgin or recycled plastic.

**recover**, for consumer packaging material, means that the consumer packaging material—

- (a) is reused; or
- (b) is recycled; or
- (c) becomes a secondary resource.

**recovery rate** see section 41E.

**recycle**, for a product, means use the product as a raw material to produce another product.

**registered**, for a trade mark, means registered under the *Trade Marks Act 1995*(Cwlth).

**reuse**, for a product, means use the product for the same or similar purpose as its original purpose without subjecting the product to a manufacturing process that would change its physical appearance.

**secondary resource** means a resource used or to be used—

- (a) to manufacture new consumer packaging or another product to replace raw or virgin materials; or
- (b) for energy recovery.

#### **41C Meaning of *complying brand owner***

A ***complying brand owner*** is a brand owner—

- (a) who is a covenant signatory and is complying with the covenant; or
- (b) who is not a covenant signatory but is a brand owner to whom any of the following apply—

- (i) the brand owner uses consumer packaging in which the brand owner's products are sold in a way that achieves environmental outcomes at least equivalent to the environmental outcomes stated for the packaging under the covenant;
- (ii) the brand owner's business has, in the most recent financial year, had a gross turnover of less than \$5m;
- (iii) the brand owner does not use consumer packaging.

#### **41D Meaning of *consumer packaging material***

- (1) *Consumer packaging material* is consumer packaging made of one or more of the following materials—
  - (a) paper;
  - (b) cardboard;
  - (c) steel;
  - (d) aluminium;
  - (e) polyethylene terephthalate (PET) plastics;
  - (f) high density polyethylene (HDPE) plastics;
  - (g) other plastics, including—
    - (i) unplasticised polyvinyl chloride (UPVC) plastics;  
or
    - (ii) plasticised polyvinyl chloride (PPVC) plastics; or
    - (iii) low density polyethylene (LDPE) plastics; or
    - (iv) polypropylene (PP) plastics; or
    - (v) polystyrene (PS) plastics; or
    - (vi) expandable polystyrene (EPS) plastics.
- (2) *Consumer packaging material*, for a brand owner, is—
  - (a) for a retailer—a plastic bag given or sold to a consumer for the transportation of products bought by the consumer from the retailer; or

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- (b) for an importer or Australian manufacturer of plastic bags—a plastic bag imported or manufactured, other than a plastic bag given or sold to a retailer for use as mentioned in paragraph (a); or
- (c) for all other brand owners—consumer packaging material sold in carrying on the brand owner’s business.

#### **41E Meaning of *recovery rate***

The *recovery rate*, for a brand owner, is the rate at which consumer packaging material is recovered by or for the brand owner, and is worked out by using the formula—

$$R = \frac{WR}{WS} \times 100\%$$

where—

*R* means the brand owner’s recovery rate.

*WR* means the weight of the consumer packaging material recovered by or for the brand owner.

*WS* means the weight of the brand owner’s consumer packaging material sold in Australia.

#### **41F General**

Unless this part provides otherwise, expressions used in this part that are defined in the measure have the meaning given to them in the measure.

## **Division 2 Responsibilities of particular brand owners**

#### **41G Application of div 2**

- (1) This division applies to a brand owner other than a complying brand owner.



- (2) Despite subsection (1), this division applies to a brand owner only if the brand owner has received written notice of the brand owner's obligations under this division under section 41H.

#### **41H Brand owner to be notified of obligations**

If the chief executive is satisfied on reasonable grounds in the circumstances that a brand owner is not a complying brand owner, the chief executive may give a written notice to the brand owner stating the following—

- (a) that the division is in force;
- (b) that the division applies to the brand owner;
- (c) that the division does not apply to a complying brand owner.

#### **41I Brand owner to achieve recovery rate of consumer packaging material**

- (1) A brand owner must achieve a recovery rate of at least 70% in a financial year.

Maximum penalty—20 penalty units.

- (2) A brand owner may comply with subsection (1) by undertaking, or ensuring, the recovery of consumer packaging material that is of a size and type substantially the same as the brand owner's consumer packaging material.

*Example—*

A brand owner that packages its product in glass complies with subsection (1) if it recovers wine bottles that are not the brand owner's consumer packaging material.

#### **41J Special provision for brand owner notified of obligations in 2012–2013 financial year**

- (1) This section applies if a brand owner is given a notice under section 41H in the 2012–2013 financial year.

[s 41K]

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- (2) The brand owner must achieve a recovery rate of at least 70% from the day the brand owner receives a notice under section 41H until the end of the financial year.

Maximum penalty—20 penalty units.

#### **41K Special provision for brand owner notified of obligations during a financial year**

- (1) This section applies if a brand owner is given a notice under section 41H in a financial year other than the 2012–2013 financial year.

- (2) The brand owner must take reasonable steps to achieve a recovery rate of at least 70% for all of the financial year.

Maximum penalty—20 penalty units.

- (3) Subsection (2) applies to a brand owner even though the notice under section 41H was not given to the brand owner before the start of the financial year that the notice relates to.

#### **41L Action plans**

- (1) A brand owner must—
  - (a) create an action plan for a financial year that complies with the requirements of subsections (2) and (3); and
  - (b) give each action plan to the chief executive—
    - (i) 30 days after the brand owner receives a notice under section 41H; and
    - (ii) for every subsequent financial year—at least 30 days before the start of the financial year.

*Note—*

Section 42A states that this subsection is a prescribed provision for section 245, definition *prescribed provision*, paragraph (b) of the Act.

- (2) The brand owner's action plan must, to the greatest possible extent, contain the following information—

- 
- (a) how the brand owner will ensure the systematic recovery of the brand owner's consumer packaging material, or packaging that is substantially the same as the brand owner's consumer packaging material;
  - (b) the quantity of each type of consumer packaging material sold and that is proposed to be recovered;
  - (c) how the brand owner intends to ensure the quantity proposed under paragraph (b) will be recovered;
  - (d) either—
    - (i) that all consumer packaging material to be recovered by or for the brand owner will be recovered in the following order (the *preferred order*)—
      - (A) for use in the brand owner's consumer packaging material;
      - (B) for use within the State as a secondary resource;
      - (C) for use within Australia as a secondary resource;
      - (D) for export as a secondary resource; or
    - (ii) that the brand owner considers it will be impracticable to recover the consumer packaging materials in the preferred order;
  - (e) if paragraph (d)(ii) applies—
    - (i) reasons why the brand owner considers the preferred order impracticable; and
    - (ii) the order in which the materials will be recovered;
  - (f) how the brand owner intends to inform the public of the way the consumer packaging material is to be recovered.
- (3) The quantity mentioned in subsection (2)(b) must consist of at least the percentage of consumer packaging material required to be recovered by or for the brand owner as stated in section 41I, 41J or 41K.

#### **41M Brand owner not complying within financial year**

- (1) This section applies if the chief executive reasonably believes that—
  - (a) in the financial year immediately before the current financial year a brand owner did not comply with the recovery rate under section 41I, 41J or 41K; and
  - (b) in the current financial year the brand owner will not achieve the recovery rate stated in section 41I for the financial year.
- (2) The chief executive may give a notice to the brand owner that states the following—
  - (a) the chief executive reasonably believes the matters stated in subsection (1);
  - (b) that the brand owner is required, within a reasonable time stated in the notice, to state what steps have been taken, or will be taken, that are consistent with achieving the recovery rate stated in section 41I for the current financial year;
  - (c) failure to comply with the notice may result in the chief executive taking action under chapter 11 of the Act;
  - (d) the consequences of failing to comply with the compliance notice issued under chapter 11 of the Act;
  - (e) that submissions may be made about why the chief executive should not take action under chapter 11 of the Act;
  - (f) how the submissions may be made;
  - (g) where the submissions may be made or sent;
  - (h) a period within which the submissions must be made.
- (3) The time stated in the notice under subsection (2)(b) must end at least 14 business days after the notice is given.
- (4) A brand owner who has been issued with a notice under subsection (2) may apply to the chief executive for an extension of time to comply with the notice.

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- (5) The application under subsection (4) must—
    - (a) be made before the day stated in the notice under subsection (2)(b); and
    - (b) state the reasons why the extension should be granted.
  - (6) The chief executive may grant the application only if the chief executive believes that it is reasonable to extend the time stated in the notice.
  - (7) The chief executive must, within 10 business days after an application under subsection (4) is received, decide whether to grant the extension and—
    - (a) if the decision is to grant the extension—give the brand owner a written notice stating the new date by which the brand owner must comply with the notice; or
    - (b) if the decision is to refuse the extension—give the brand owner a written notice stating that the application is refused.
  - (8) If the chief executive fails to advise the brand owner under subsection (7), the application for an extension is taken to have been refused.
  - (9) The brand owner must comply with the requirement mentioned in subsection (2)(b), or make submissions as mentioned in subsection (2)(e), within—
    - (a) the time stated in the notice given under subsection (2); or
    - (b) if an extension of time has been granted by the chief executive—the new time decided by the chief executive.

*Note—*

Section 42A states that this subsection is a prescribed provision for section 245, definition *prescribed provision*, paragraph (b) of the Act.

#### **41N Brand owner to keep information and give information to chief executive**

- (1) A brand owner must prepare, for each financial year, and keep for at least 5 years after the end of the financial year—

[s 41N]

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- (a) the following information about each type of material for consumer packaging used by the brand owner in the year—
  - (i) the number of consumer packaging items made from the type of material;
  - (ii) the total weight of the type of material;
  - (iii) the total weight of the type of material sold in Australia; and
- (b) the following information about the consumer packaging material recovered by or for the brand owner in the financial year—
  - (i) the total weight of each type of the consumer packaging material;
  - (ii) how much of each type of consumer packaging material was reused or recycled in Australia;
  - (iii) how much of each type of consumer packaging material was exported for reuse or recycling;
  - (iv) how much of the consumer packaging material was used for energy recovery;
  - (v) the recovery rate for the consumer packaging material; and
- (c) information about the weight of the consumer packaging material that was collected by or for the brand owner in the financial year and that was disposed of as landfill; and
- (d) information about how consumers were advised about how the consumer packaging material would be recovered.

*Note—*

Section 42A states that this subsection is a prescribed provision for section 245, definition *prescribed provision*, paragraph (b) of the Act.

- (2) A brand owner must, for each financial year, give the information stated in subsection (1) to the chief executive by

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30 September after the end of the financial year, unless the person has a reasonable excuse.

*Note—*

Section 42A states that this subsection is a prescribed provision for section 245, definition *prescribed provision*, paragraph (b) of the Act.

- (3) It is a reasonable excuse for an individual not to give the information stated in subsection (1) if giving the information might tend to incriminate the individual or expose the individual to a penalty.
- (4) In this section—

*material*, for consumer packaging, means consumer packaging made from—

  - (a) any type of consumer packaging material; or
  - (b) material other than consumer packaging material (*non-consumer packaging material*); or
  - (c) a combination of consumer packaging material and non-consumer packaging material.

#### **41O Request for exemption on ground of commercial confidentiality**

- (1) A brand owner may, by written notice given to the chief executive, ask for an exemption from the requirement stated in section 41N(2) on the grounds of commercial confidentiality.
- (2) The notice must contain the information necessary to enable the chief executive to decide the request.
- (3) The chief executive may, by written notice given to the brand owner, ask the brand owner to give the chief executive, in the reasonable period stated in the notice, further relevant information to enable the chief executive to decide the request.
- (4) A notice under subsection (3) must be accompanied by, or include, the reasons the chief executive has made the request for further information.

#### **41P Deciding request for exemption**

- (1) The chief executive may grant a request for exemption under section 41O only if the chief executive reasonably believes the information would be—
  - (a) exempt information under the *Right to Information Act 2009*; or
  - (b) information disclosure of which could reasonably be expected to cause a public interest harm as mentioned in the *Right to Information Act 2009*, schedule 4, part 4, section 7.
- (2) If the chief executive grants the exemption, the brand owner is exempted from giving the information under section 41N(2) to the chief executive.
- (3) The chief executive must give the brand owner written notice of the chief executive's decision on the request for exemption.
- (4) If the chief executive refuses to grant the request, the notice must be an information notice about the decision to refuse to grant the request.
- (5) Subsection (6) applies if the chief executive does not give the brand owner a notice about the chief executive's decision on the request—
  - (a) within 60 days after the request is made; or
  - (b) if the brand owner gave the chief executive further information under section 41O(3)—within 60 days after receiving the further information.
- (6) The chief executive's failure to give the notice is taken to be a decision by the chief executive to refuse to grant the request at the end of the 60 days.



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## **Division 3                      Kerbside recycling collectors to give information to chief executive**

### **41Q    Local government to give information to chief executive**

- (1) This section applies to a local government, or a regional grouping of local governments, that operates or provides a kerbside recycling collection service or other recycling system within a local government area (a *local government recycling provider*).
- (2) If the local government recycling provider operates or provides a kerbside recycling collection service, the local government recycling provider must, within 3 months after the end of each financial year in which the kerbside recycling collection service operates, give to the chief executive the following information for the financial year—
  - (a) the percentage of households with access to the kerbside recycling collection service;
  - (b) the participation rate for the kerbside recycling collection service;
  - (c) the fee charged to each household for the collection service;
  - (d) the total weight of recyclable material, however collected, in the local government area or areas;
  - (e) if the recyclable material collected is sorted—
    - (i) the total weight of each type of recyclable material collected; and
    - (ii) if practicable, the total weight of each type of recyclable material that is the residue disposed of as landfill.
- (3) If the local government recycling provider operates or provides another recycling service, the local government recycling provider must, within 3 months after the end of each financial year in which the kerbside recycling collection service operates, give the chief executive information about

[s 41R]

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the percentage of households with access to the recycling system.

- (4) If, after the commencement of this part, a local government recycling provider enters into a contract with another person, or an existing contract is renewed or novated, to provide a kerbside recycling collection service, the local government recycling provider must include an obligation in the contract for the other person to give the provider the information contained in subsections (2) and (3).
- (5) In this section—

*household* includes residential premises and non-residential premises supplied with a container for the collection of recyclable material by the operator of the service.

*participation rate*, for a kerbside recycling collection service, means the number of households or other premises making use of the service, expressed as a proportion of the number of households or premises to which the service is available.

*recyclable material* means material reasonably able to be recycled.

#### **41R Kerbside recycling collectors to give information to chief executive**

- (1) This section applies if—
- (a) a person other than a local government or regional grouping of local governments provides a kerbside recycling collection service in a local government area under a contract; and
  - (b) the contract does not require the person to give the information stated in section 41Q(2) and (3) to the local government or the regional grouping.
- (2) The chief executive may, at least one month before the end of the financial year to which the information relates, give a notice to the person stating the following—

- 
- (a) the information stated in section 41Q(2) and (3) that is required from the person;
  - (b) that the information must be given within 3 months after the end of the financial year to which the information relates;
  - (c) that failure to comply with the notice may result in the chief executive taking action under chapter 11 of the Act;
  - (d) the consequences of failing to comply with a compliance notice issued under chapter 11 of the Act.
- (3) The person must provide the information stated in the notice to the chief executive within 3 months after the end of the financial year to which the information relates.

*Note—*

Section 42A states that this subsection is a prescribed provision for section 245, definition *prescribed provision*, paragraph (b) of the Act.

## **Division 4                      Chief executive reporting requirements**

### **41S      Chief executive to give council information**

- (1) Within 6 months after the end of a financial year, the chief executive must give the council the following for the financial year—
  - (a) aggregate information based on information received from brand owners under section 41N;
  - (b) aggregate information based on information received from local government recycling providers under section 41Q and from kerbside recycling collectors under section 41R;
  - (c) information gathered through surveys conducted under section 41T;
  - (d) information about—

[s 41T]

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- (i) complaints received by the chief executive about matters arising under this part; and
  - (ii) investigations undertaken for the purposes of this part; and
  - (iii) prosecutions undertaken for offences under this part;
  - (e) a statement of interpretation that summarises and explains the information provided under this section.
- (2) In this section—  
*council* means the Australian Packaging Covenant Council.

## **Division 5                      Other provisions**

### **41T      Survey of brand owners**

The chief executive may conduct a brand survey of packaged products or a survey of brand owners to determine the effectiveness of this part in stopping brand owners from being free riders.

### **41U      Review of part**

- (1) The chief executive must carry out a review of the operation of this part.
- (2) The review must be carried out at least every 5 years, but it may be undertaken more often if—
  - (a) the Minister directs the chief executive to conduct a review; or
  - (b) the covenant or the measure is being reviewed.
- (3) The objects of the review include—
  - (a) evaluating the effectiveness of this part to prevent a brand owner from being a free rider; and

- (b) deciding whether this part aligns with applicable waste management strategies, priority product statements or product stewardship arrangements then in effect.
- (4) The chief executive may conduct the review by surveying brand owners.

**41V Person not required to comply with part if measure or covenant not in force**

A person is not required to comply with this part if either of the following are not in force—

- (a) the covenant;
- (b) the measure.

## **Part 5B Management of clinical and related wastes**

**41X Segregation of waste**

- (1) A person who operates premises at which clinical or related waste is generated must ensure the waste is segregated into—
  - (a) the following categories of clinical waste—
    - (i) animal waste;
    - (ii) discarded sharps;
    - (iii) human tissue waste;
    - (iv) laboratory and associated waste directly resulting from the processing of specimens; and
  - (b) the following categories of related waste—
    - (i) chemical waste;
    - (ii) waste constituted by, or contaminated with, cytotoxic drugs;
    - (iii) human body parts;

[s 41Y]

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- (iv) pharmaceutical waste;
- (v) radioactive waste; and
- (c) general waste.

Maximum penalty—20 penalty units.

- (2) It is a defence to a charge under subsection (1) for the defendant to prove that the waste will be given, for treatment or disposal, to a person who is authorised, under either of the following, to receive waste that is not segregated in the way required under subsection (1)—
  - (a) an environmental authority;
  - (b) a development condition of a development approval.

#### **41Y Design requirements for waste containers**

- (1) This section applies to a person who operates premises at which clinical or related waste is generated.
- (2) The person must ensure all bags and other containers used at the establishment for the collection, storage, transport or disposal of clinical and related waste mentioned in schedule 7A comply with the requirements for the waste in the schedule.

Maximum penalty—20 penalty units.

#### **41Z Giving waste to another person for transport, storage, treatment or disposal**

- (1) This section applies to a person who operates premises at which clinical or related waste is generated.
- (2) The person must not give the waste to another person for transport, storage, treatment or disposal unless the other person is the holder of, or a person acting under, an environmental authority for transporting, storing, treating or disposing of the waste.

Maximum penalty—20 penalty units.

- 
- (3) It is a defence to a charge under subsection (2) for the defendant to prove there were reasonable grounds for believing the other person had an environmental authority for transporting, storing, treating or disposing of the waste.

#### **41ZA Disposal of sharps**

- (1) Subsection (2) applies to a person who discards—
- (a) at a residential premises, a hypodermic needle that has been in contact with human or animal tissue or body fluids; or
  - (b) at a place other than a residential premises, a hypodermic needle or other sharp.

- (2) The person must—
- (a) place the needle or other sharp in a rigid-walled, puncture-resistant container; and
  - (b) seal or securely close the container.

Maximum penalty—20 penalty units.

- (3) Subsection (4) applies to a person who discards a needle or other sharp at premises at which clinical or related waste is generated.
- (4) The person must place the needle or other sharp in a container that complies with—
- (a) the ‘Australian/New Zealand Standard for Reusable containers for the collection of sharp items used in human and animal medical applications: AS/NZS 4261:1994’ published by Standards Australia; or
  - (b) the ‘Australian Standard for Non-reusable containers for the collection of sharp medical items used in health care areas: AS 4031-1992’ published by Standards Australia.

Maximum penalty—20 penalty units.

- (5) Also, a person who discards a needle or other sharp under subsection (2) or (4) must ensure it is not accessible to another person.

[s 41ZB]

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Maximum penalty—20 penalty units.

#### **41ZB Storage area for clinical or related waste**

A person who operates premises at which clinical or related waste is generated—

- (a) must set aside an area for storing the waste that is not accessible to animals or persons, other than persons who are authorised by the person operating the premises to enter the area; and
- (b) must not store the waste anywhere other than an area mentioned in paragraph (a).

Maximum penalty—20 penalty units.

#### **41ZC Storage of clinical or related waste**

- (1) A person who operates premises at which clinical or related waste is generated and stored must ensure the waste does not create an environmental nuisance after it is generated.

Maximum penalty—20 penalty units.

- (2) In this section—

*environmental nuisance* see the Environmental Protection Act, section 15.

#### **41ZD Treatment and disposal of clinical or related waste**

A person who operates premises at which clinical or related waste is generated must ensure the waste is treated and disposed of in accordance with schedule 7B.

Maximum penalty—20 penalty units.



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## Part 5C Management of polychlorinated biphenyls (PCBs)

### Division 1 Preliminary

#### 41ZE Definitions for pt 5C

In this part—

***concentrated***, for PCB material, see section 41ZF(4).

***diluent*** means a matrix within which PCBs are distributed such as, for example, oil, soil or concrete, but does not include the casing or other solid surrounding the matrix.

***licensed disposal facility*** means—

- (a) a facility in Queensland authorised, under any of the following, to be used for disposing of PCB waste—
  - (i) a development condition of a development approval;
  - (ii) an environmental authority; or
- (b) a facility in another State authorised to be used under a licence, approval or other authority, given under a law of that State, to dispose of PCB waste.

***licensed treatment facility*** means—

- (a) a facility in Queensland authorised, under any of the following, to be used for treating PCB waste—
  - (i) a development condition of a development approval;
  - (ii) an environmental authority; or
- (b) a facility in another State authorised to be used under a licence, approval or other authority, given under a law of that State, to treat PCB material.

***non-scheduled***, for PCB material, means PCB material that is not scheduled PCB material.

[s 41ZF]

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**PCB** means a polychlorinated biphenyl.

**PCB-free** see section 41ZG(1).

**PCB material** means—

- (a) PCBs that are not in a diluent; or
- (b) PCBs in a diluent in a concentration of at least 2mg/kg.

**PCB waste** means waste that is PCB material.

**scheduled**, for PCB material, see section 41ZF(3).

#### **41ZF Types of PCB material**

- (1) This part applies to PCB material according to the amount and concentration of PCBs in the PCB material.
- (2) PCB material is either scheduled or non-scheduled.
- (3) PCB material is **scheduled** if—
  - (a) the concentration of PCBs in the material is at least 50mg/kg; and
  - (b) the material contains at least 50g of PCBs.
- (4) PCB material is **concentrated** if—
  - (a) the concentration of PCBs in the material is at least 100,000mg/kg; and
  - (b) the material contains at least 50g of PCBs.

#### **41ZG Deciding if material or equipment is PCB-free**

- (1) For this part—
  - (a) material is **PCB-free** if it is not PCB material; and
  - (b) equipment is **PCB-free** if—
    - (i) there is no PCB material in the equipment other than on the surface area of the PCB-contaminated metal in the equipment; and

- 
- (ii) the PCB-contaminated metal in the equipment does not have a coverage of PCBs on its surface area of more than 1mg/m<sup>2</sup>, as decided under the guidelines mentioned in subsection (2).
- (2) The chief executive must—
    - (a) prepare guidelines for deciding the coverage of PCBs on the surface area of PCB-contaminated metal; and
    - (b) make the guidelines available to the public, whether published on the department’s website or otherwise, free of charge or on payment of a reasonable fee.
  - (3) In this section—

*PCB-contaminated metal*, in equipment, means metal that normally comes into contact with PCB material when the equipment is used.

## Division 2 Treatment of PCB material

### 41ZH Treatment of PCB material only at licensed treatment facilities

- (1) A person must not dilute, disaggregate or otherwise treat PCB material at a place other than a licensed treatment facility.

*Note—*

Section 42A states that this subsection is a prescribed provision for section 245, definition *prescribed provision*, paragraph (b) of the Act.
- (2) For this section, a person does not treat PCB material if the person merely—
  - (a) removes PCB material from equipment; or
  - (b) refills equipment containing PCB material for the purpose of the continued operation of the equipment.

## **Division 3                      Disposal of PCB waste**

### **41ZI    Waste that is scheduled PCB material must be sent for treatment**

- (1) A person who generates waste that is scheduled PCB material must give the waste to a licensed treatment facility for treatment within 1 year after the waste is generated.

Maximum penalty—20 penalty units.

- (2) It is a defence to a charge under subsection (1) for the person to show the person has a reasonable excuse for not complying.

*Example—*

It is a reasonable excuse that there is no licensed treatment facility to which the waste can be given within 1 year after it is generated.

- (3) If the person is not able to comply with subsection (1), the person must—
- (a) give a written notice to the chief executive stating—
    - (i) the person is not able to comply with subsection (1), and the reason; and
    - (ii) how the person will ensure the waste is taken to a licensed treatment facility for treatment as soon as practicable; and
  - (b) give the waste to a licensed treatment facility, for treatment, as soon as is practicable.

Maximum penalty—20 penalty units.

### **41ZJ    Prohibition on disposal of waste that is scheduled PCB material and liquid PCB waste**

A person must not dispose of waste that is scheduled PCB material or liquid PCB waste to a landfill.

Maximum penalty—20 penalty units.



[s 41ZM]

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- (b) the amount and concentration of PCBs in the material;  
and
- (c) where the material is located at the premises.

#### **41ZM Emergency plan**

- (1) The person must prepare an emergency plan for the premises, within 90 days after this division starts to apply to the person, and must keep the plan up to date.

Maximum penalty—5 penalty units.

- (2) In this section—

*emergency plan*, for a premises, means a plan that addresses—

- (a) monitoring and recording—
  - (i) the amount of scheduled PCB material at the premises; and
  - (ii) where the material is located; and
  - (iii) access to the material; and
- (b) the following issues concerning relevant incidents at the premises—
  - (i) minimising the risks of an incident;
  - (ii) timely and effective containment of an incident;
  - (iii) timely and effective clean-up and repairs after an incident;
  - (iv) managing waste generated by the clean-up or repairs.

*relevant incident*, at a premises, means a fire at the premises or a spill or other accident involving scheduled PCB material at the premises.

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## **Division 5                      Equipment containing PCB material**

### **41ZN Use of equipment containing concentrated PCB material**

- (1) A person must not use equipment containing concentrated PCB material if the person knows, or ought reasonably to know, that the equipment contains concentrated PCB material.  
Maximum penalty—20 penalty units.
- (2) Subsection (1) does not apply if there is a current exemption for the equipment given under section 41ZO.

### **41ZO Exemption permitting use of equipment containing concentrated PCB material**

- (1) A person may apply to the chief executive to—
  - (a) exempt equipment from the application of section 41ZN; or
  - (b) extend an exemption given under paragraph (a) for 1 or more further periods.
- (2) The chief executive may give or extend an exemption for equipment only if the chief executive is satisfied the equipment is not—
  - (a) near a food processing facility, animal feedlot, school or hospital; or
  - (b) in a potable surface or underground water catchment area, aquatic spawning area or endangered wildlife habitat; or
  - (c) at another place requiring higher than usual protection against environmental harm from a spill or other accident involving concentrated PCB material.
- (3) An exemption may be given on reasonable conditions.
- (4) An applicant for an exemption must give the chief executive the information the chief executive reasonably requires to decide the application.

[s 41ZP]

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- (5) If the chief executive decides to refuse the request, the notice must be an information notice about the decision.
- (6) If the chief executive has not decided the application by the due day, the chief executive is taken to have refused the application.
- (7) In this section—
  - due day*, for deciding an application, means—
    - (a) the sixtieth day after the application is made, not including a day the chief executive asks for information under subsection (4), a day the applicant gives the requested information, and any days in between; or
    - (b) any later day agreed between the chief executive and the applicant.

*endangered wildlife* see the *Nature Conservation Act 1992*, schedule.

*environmental harm* see the *Environmental Protection Act*, section 14.

#### **41ZP Use of equipment containing scheduled PCB material**

A person must not use equipment containing scheduled PCB material, other than concentrated PCB material, if the person knows, or ought reasonably to know, that the equipment contains scheduled PCB material.

Maximum penalty—20 penalty units.

#### **41ZQ Dealing with equipment that is no longer used**

- (1) This section applies to the owner of equipment containing PCB material.
- (2) Not later than 1 year after the equipment is permanently removed from operational use, the owner must deal with the equipment as follows—
  - (a) if the equipment contains concentrated PCB material, the owner must give the equipment to a licensed





[s 42]

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- (a) schedule 7C, column 2 identifies the types of waste that are disposal ban waste for the part of the State mentioned opposite the waste in column 1; and
- (b) schedule 7C, column 3 identifies the day the waste became disposal ban waste for that part of the State.

#### **42 Prescribed persons—Act, s 183**

For the Act, section 183(1)(c), the following persons are prescribed—

- (a) a council employee under the *City of Brisbane Act 2010*;
- (b) a local government employee under the *Local Government Act 2009*.

#### **42A Prescribed provisions for Act, s 245**

The following provisions of this regulation are prescribed provisions for the Act, section 245, definition ***prescribed provision***, paragraph (b)—

- section 41L(1);
- section 41M(9);
- section 41N(1) and (2);
- section 41R(3);
- section 41ZH(1).

#### **43 Prescribed commercial activity—Act, schedule, definition *municipal solid waste***

The following commercial activities are prescribed for the Act, schedule, definition ***municipal solid waste***, item 2, paragraph (c)—

- (a) sorting of waste;
- (b) resource recovery from waste;
- (c) reprocessing and recycling operations.

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**44 Prescribed recycling activity—Act, schedule, definition  
*recycling activity***

- (1) The following activities are prescribed for the Act, schedule, definition *recycling activity*, paragraph (j)—
- (a) mulching green waste;
  - (b) recycling construction and demolition waste;
  - (c) recycling mattresses;
  - (d) composting and soil conditioner manufacturing.

- (2) In this section—

***composting and soil conditioner manufacturing*** means manufacturing, from organic material or organic waste, compost or soil conditioners other than—

- (a) manufacturing mushroom growing substrate; or
- (b) composting material from agriculture or livestock on the site where the material is produced.

***construction and demolition waste***—

- (a) means waste generated as a result of carrying out building work within the meaning of the *Building Act 1975*, section 5; and
- (b) without limiting paragraph (a), includes waste generated by building, repairing, altering or demolishing infrastructure for roads, bridges, tunnels, sewage, water, electricity, telecommunications, airports, docks or rail.

***organic waste***—

- (a) includes the following—
  - (i) a substance used for manufacturing fertiliser for agricultural, horticultural or garden use;
  - (ii) animal manure;
  - (iii) biosolids;
  - (iv) cardboard and paper waste;
  - (v) fish processing waste;

[s 45]

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- (vi) food and food processing waste;
- (vii) plant material;
- (viii) poultry processing waste;
- (ix) waste generated from an abattoir; but
- (b) does not include—
  - (i) clinical waste; or
  - (ii) related waste; or
  - (iii) contaminated soil; or
  - (iv) organic chemicals, other than a substance mentioned in paragraph (a)(i); or
    - Examples of organic chemicals for subparagraph (iv)—*
    - chlorinated hydrocarbons, lubricating greases, pesticides, tars
  - (v) plastics that are not compostable.

## 45 Fees

The fees payable under the Act are in schedule 7.

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**Schedule 5      Local governments for waste disposal sites—weighbridge requirement provision**

section 8

- 1    Banana Shire Council
- 2    Brisbane City Council
- 3    Bundaberg Regional Council
- 4    Burdekin Shire Council
- 5    Cairns Regional Council
- 6    Cassowary Coast Regional Council
- 7    Central Highlands Regional Council
- 8    Charters Towers Regional Council
- 9    Fraser Coast Regional Council
- 10   Gladstone Regional Council
- 11   Gold Coast City Council
- 13   Gympie Regional Council
- 14   Hinchinbrook Shire Council
- 15   Ipswich City Council
- 16   Isaac Regional Council
- 17   Lockyer Valley Regional Council
- 18   Logan City Council
- 19   Mackay Regional Council
- 20   Moreton Bay Regional Council
- 21   Mount Isa City Council
- 22   North Burnett Regional Council
- 23   Redland City Council

Schedule 5

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- 24 Rockhampton Regional Council
- 25 Scenic Rim Regional Council
- 26 Somerset Regional Council
- 27 South Burnett Regional Council
- 28 Southern Downs Regional Council
- 29 Sunshine Coast Regional Council
- 30 Tablelands Regional Council
- 31 Toowoomba Regional Council
- 32 Townsville City Council
- 33 Western Downs Regional Council
- 34 Whitsunday Regional Council

## Schedule 7 Fees

### section 45

	\$
1 Application for accreditation of a voluntary product stewardship scheme (Act, s 89(2)(c))	381.90
2 Application for an end of waste approval (Act, s 173I(2)(d))—	
(a) for using a liquid waste as a soil conditioner or fertiliser—	
(i) if the waste is a result of coal seam gas extraction	17,454.00
(ii) otherwise	6,985.00
(b) for using a sludge or soil waste as a soil conditioner or fertiliser—	
(i) if the waste is biosolids	2,623.00
(ii) otherwise	6,985.00
(c) for using any kind of waste as a resource for an industrial activity—	
(i) if associated with the carrying out of an ERA	3,496.00
(ii) otherwise	5,240.00
(d) for using any kind of waste as a resource for augmenting a water supply	61,067.00
(e) otherwise	2,623.00
3 Application to amend an end of waste approval (Act, s 173S(2)(d))	50% of the application fee mentioned in item 2

Schedule 7




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		\$
4	Application to transfer an end of waste approval (Act, s 173S(3)(d))	126.30



## Schedule 7A Design requirements for waste containers

section 41Y

Waste	Container	Symbol colour	Symbol	Identification
clinical	yellow	black		clinical waste
cytotoxic	purple	white		cytotoxic waste-incinerate at 1100°C
radioactive	red	black		radioactive waste

## Schedule 7B Treatment and disposal of clinical and related waste

section 41ZD

Waste type	Treatment and disposal process						
	Incineration	Autoclaving and shredding	Chemical disinfection using hypochlorite and shredding	Chemical disinfection using peroxide, lime and shredding	Micro wave and shredding	Compaction	Landfill
chemical	yes (if licensed)	no	no	no	no	no	no
cytotoxic	yes	no	no	no	no	no	no
human body parts	yes	no	no	yes	no	no	no
pharmaceutical	yes	no	no	no	no	no	no
radioactive	no	no	no	no	no	no	no
treated clinical	—	—	—	—	—	yes	yes
untreated clinical	yes	yes	yes	yes	yes	yes (other than animal carcasses and sharps)	no (other than in a scheduled area)

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**Schedule 7C Disposal ban waste**

section 41ZR

<b>Column 1 Part of State</b>	<b>Column 2 Type of waste</b>	<b>Column 3 Effective date</b>
all of the State	liquid PCB waste related waste waste that is scheduled PCB material	1 September 2014
all of the State, other than a scheduled area	untreated clinical waste	1 September 2014

## Schedule 9 Dictionary

### section 3

***animal waste*** means any discarded materials, including carcasses, body parts, blood or bedding, originating from animals contaminated with an agent infectious to humans or from animals inoculated during research, production of biologicals or pharmaceutical testing with infectious agents.

***biosolids***—

- (a) means stabilised organic solids produced by wastewater treatment processes; but
- (b) does not include untreated wastewater sludge, industrial sludge or by-products from high temperature incineration of sewerage sludge.

***brand owner***, for part 5A, see section 41B.

***chemical*** see the *Environmental Protection Regulation 2008*, schedule 12.

***chemical waste*** means waste generated from the use of chemicals in medical, dental, veterinary and laboratory procedures, including, for example, mercury, formalin and gluteraldehyde.

***clinical waste*** means waste that has the potential to cause disease, including, for example, the following—

- (a) animal waste;
- (b) discarded sharps;
- (c) human tissue waste;
- (d) laboratory waste.

***complying brand owner***, for part 5A, see section 41C.

***concentrated***, for PCB material, for part 5C, see section 41ZF(4).

***consumer packaging***, for part 5A, see section 41B.

**consumer packaging material**, for part 5A, see section 41D.

**covenant**, for part 5A, see section 41B.

**covenant signatory**, for part 5A, see section 41B.

- (a) mentioned in schedule 6, table 1, column 1 or a skip-bin truck; and
- (b) in which waste is delivered to a levyable waste disposal site, or moved under a movement of a type mentioned in section 44(2)(a), (b), (c) or (d) of the Act.

**cytotoxic drug** means a drug known to have carcinogenic, mutagenic or teratogenic potential.

**cytotoxic waste** means waste that is contaminated by a cytotoxic drug.

**development approval** means a development approval under the *Planning Act 2016*.

**development condition**—

- 1 **Development condition**, of a development approval, means a condition of the approval imposed by, or imposed because of a requirement of—
  - (a) the administering authority under the Environmental Protection Act; or
  - (b) the chief executive of the department in which the *Planning Act 2016* is administered, as the assessment manager or a referral agency for the application for the approval.
- 2 The term includes a reference to a condition mentioned in the *State Development and Public Works Organisation Act 1971*, section 39(1)(a).
- 3 To remove any doubt, it is declared that if a condition mentioned in clause 1 was imposed on a development approval because the approval related to an environmentally relevant activity, the condition does not stop being a development condition only because the activity stops being an environmentally relevant activity.

**diluent**, for part 5C, see section 41ZE.

***distribution packaging***, for part 5A, see section 41B.

***environmentally relevant activity*** see the Environmental Protection Act, section 18.

***ERA*** means environmentally relevant activity.

***free-flowing***, for blood, or body fluids, means blood, blood products or body fluid that is flowing, dripping, oozing, liquid or able to be squeezed from material.

***free rider***, for part 5A, see section 41B.

***general waste*** means waste other than regulated waste.

***green waste*** means grass cuttings, trees, bushes, shrubs, loppings of trees, bushes or shrubs, or similar matter produced as a result of the ordinary use or occupation of premises.

***hospital*** has the meaning given by the *Hospital and Health Boards Act 2011*, schedule 2 and includes a dental hospital or hospice.

***human body parts*** means recognisable organs, bones and gross body parts but does not include teeth, gums, hair, nails, bone fragments or a placenta if it is to be retained by a parent or guardian.

***human tissue waste*** means the following—

- (a) tissue, blood, blood products and other body fluids that are removed from a person during surgery, an autopsy or another medical procedure;
- (b) tissue, blood, blood products and other body fluids that are removed from a person during post-operative care or treatment;
- (c) specimens of tissue, blood, blood products and other body fluids and containers in which the specimens are kept;
- (d) discarded material saturated with, or containing free-flowing blood and other body fluids.

***kerbside recycling collection***, for part 5A, see section 41B.

***laboratory waste*** means a specimen or culture discarded in the course of dental, medical or veterinary practice or research,

including material that is, or has been contaminated by, genetically manipulated material or imported biological material.

**licensed**, for schedule 7B, means the person who operates the premises holds, or is acting under, the required authority for the activity.

**licensed disposal facility**, for part 5C, see section 41ZE.

**licensed treatment facility**, for part 5C, see section 41ZE.

**local government recycling provider**, for part 5A, see section 41Q(1).

**measure**, for part 5A, see section 41B.

**non-scheduled**, for PCB material, for part 5C, see section 41ZE.

**packaging chain**, for part 5A, see section 41B.

**PCB**, for part 5C, see section 41ZE.

**PCB-free**, for part 5C, see section 41ZG(1).

**PCB material**, for part 5C, see section 41ZE.

**PCB waste**, for part 5C, see section 41ZE.

**pharmaceutical product** means a restricted drug under the *Health (Drugs and Poisons) Regulation 1996*.

**pharmaceutical waste** means waste arising from—

- (a) pharmaceutical products that have passed their recommended shelf life; and
- (b) pharmaceutical products discarded due to off-specification batches or contaminated packaging; and
- (c) pharmaceutical products returned by patients or discarded by the public; and
- (d) pharmaceutical products no longer required by the public; and
- (e) waste generated during the manufacture of pharmaceutical products.

**plastic bag**, for part 5A, see section 41B.

**radioactive substance** see the *Radiation Safety Act 1999*, schedule 2.

**radioactive waste** means waste that is contaminated with a radioactive substance.

**recovery rate**, for part 5A, see section 41E.

**recycle**, for part 5A, see section 41B.

**registered**, for part 5A, see section 41B.

**related waste** means waste that constitutes, or is contaminated with, chemicals, cytotoxic drugs, human body parts, pharmaceutical products or radioactive substances.

**relevant schedule 5 site** means a waste disposal site located in the local government area of a local government mentioned in schedule 5, if the operator of the site is required to hold an environmental authority for the disposal of more than 5000t of waste in a year at the site.

**residential premises** means—

- (a) domestic premises; or
- (b) a boarding house, hostel, lodging house or guest house.

**reuse**, for part 5A, see section 41B.

**scheduled**, for PCB material, for part 5C, see section 41ZF(3).

**scheduled area** see the *Environmental Protection Regulation 2008*, section 15.

**secondary resource**, for part 5A, see section 41B.

**sharp** means an object or device having sharp points, protuberances or cutting edges that are capable of causing a penetrating injury to humans.

**tissue** does not include human body parts, teeth, hair, nail, gums and bone.

**vehicle** see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.