

Waste Avoidance and Resource Recovery Act 2007

Waste Avoidance and Resource Recovery Amendment Regulations 2019

Made by the deputy of the Governor in Executive Council.

1. Citation

These regulations are the *Waste Avoidance and Resource Recovery Amendment Regulations 2019*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

These regulations amend the *Waste Avoidance and Resource Recovery Regulations 2008*.

4. Regulation 13 amended

Delete regulation 13(2)(b) and insert:

- (b) on the Department's website.

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5. Regulation 17 amended

In regulation 17(6)(b) after “false” insert:

or misleading

6. Part 3A inserted

After regulation 18 insert:

Part 3A — Annual return

18A. Terms used

In this Part —

annual return means the return required to be lodged by a liable person under regulation 18C(1);

liable person has the meaning given in regulation 18B;

licence means a licence under the EP Act Part V Division 3;

licensed landfill means premises specified in category 63, 64 or 65 of the *Environmental Protection Regulations 1987* Schedule 1 in respect of which a licence is held;

licensee means the holder of a licence in respect of a licensed landfill;

metropolitan region has the meaning given in the *Planning and Development Act 2005* section 4(1);

reportable waste means waste that is solid matter.

18B. Liable persons

- (1) If subregulation (2), (3) or (4) applies to a person, the person is a *liable person* for the purposes of this Part.

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- (2) This subregulation applies to a local government that provides waste services.
- (3) This subregulation applies to a person that is the occupier of premises, whether or not the person holds a licence in respect of the premises —
 - (a) if reportable waste is treated, processed or sorted at the premises for the purposes of reprocessing, recycling or energy recovery; and
 - (b) if, as a result of that treatment, processing or sorting, at least 1 000 tonnes of reprocessed, recycled or recovered material is produced in a financial year at the premises that —
 - (i) needs no further processing and is ready for use as a production input or a final product; or
 - (ii) is to be exported from the State.
- (4) This subregulation applies to a licensee, or a person who is the occupier of premises (the *relevant premises*) that would, if the person held a licence in respect of the relevant premises, be a licensed landfill —
 - (a) if at least 20 000 tonnes of reportable waste is received in a financial year at the licensed landfill or the relevant premises; and
 - (b) if the licensed landfill is, or the relevant premises are, outside the metropolitan region.
- (5) A person must inform the CEO in the approved form —
 - (a) if the person is a liable person under subregulation (2) — that the person is a local government that provides waste services; or
 - (b) if the person is a liable person under subregulation (3) or (4) — of the premises or

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licensed landfill in respect of which the person is a liable person.

18C. Liable persons to make and lodge annual return

- (1) A liable person must make a return in the approved form and lodge it with the CEO on or before 1 October in each year.
- (2) The annual return must contain information for the most recently completed financial year relating to reportable waste or the recycling of reportable waste, as required by the notice under regulation 18D(1).

18D. CEO to give notice of information required for annual return

- (1) The CEO must, by notice published in the *Gazette*, describe in detail —
 - (a) the information relating to reportable waste or the recycling of reportable waste that a liable person is required to provide in its annual return; and
 - (b) the procedures to be followed by a liable person for the purposes of —
 - (i) making the necessary records from which that information may be ascertained; and
 - (ii) calculating or estimating that information.
- (2) A notice under subregulation (1) may apply to one or more specified liable persons or to a specified class of liable persons.
- (3) The CEO may, by notice published in the *Gazette*, amend, or revoke and replace, a notice under

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- subregulation (1), and the amended or replaced notice is taken to be a notice under that subregulation.
- (4) Without limiting subregulation (1), a notice under that subregulation may describe information —
- (a) that relates to recycling programmes or collection services for reportable waste that have been provided by a liable person; or
 - (b) that relates to reportable waste that has been reprocessed, recycled or recovered by a liable person; or
 - (c) that relates to reportable waste that has been received at landfill premises occupied by a liable person; or
 - (d) that the CEO otherwise reasonably requires from a liable person, in relation to reportable waste or the recycling of reportable waste, to support —
 - (i) the objects of the Act described in section 5(1) of the Act; or
 - (ii) the purpose of the waste strategy described in section 24 of the Act.
- (5) A liable person must keep any record made in accordance with subregulation (1)(b)(i) in a legible written form, or so as to be readily convertible into such a form, for a period of not less than 5 years from the day on which the record was made.
- (6) A notice published in the *Gazette* under subregulation (1) or (3) must also be published on the Department's website.

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18E. Offences

- (1) A liable person commits an offence if the person fails to inform the CEO under regulation 18B(5).
Penalty for this subregulation: a fine of \$10 000.
- (2) A liable person commits an offence if the person fails to lodge an annual return with the CEO on or before the date referred to in regulation 18C(1).
Penalty for this subregulation: a fine of \$10 000.
- (3) A liable person commits an offence if the person fails to lodge an annual return with the CEO that contains the information required by a notice under regulation 18D(1).
Penalty for this subregulation: a fine of \$10 000.
- (4) A liable person commits an offence if the person lodges an annual return with the CEO that contains any information that is false or misleading in a material particular.
Penalty for this subregulation: a fine of \$10 000.
- (5) A liable person commits an offence if the person makes a record in accordance with regulation 18D(1)(b)(i) that is false or misleading in a material particular.
Penalty for this subregulation: a fine of \$10 000.
- (6) A liable person commits an offence if the person contravenes regulation 18D(5).
Penalty for this subregulation: a fine of \$10 000.

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7. Regulation 25 inserted

After regulation 24 insert:

25. Transitional provision — first annual return

- (1) In this regulation —
commencement day means 1 July 2019.
- (2) The first annual return that a liable person is required to make and lodge under regulation 18C must relate to the period —
 - (a) for a person that is a liable person on the commencement day — from that day to 30 June 2020; or
 - (b) for a person that becomes a liable person after the commencement day — from the day the person becomes a liable person to the following 30 June.

D. FOSTER, Clerk of the Executive Council.
