
ENVIRONMENT

EV301

Waste Avoidance and Resource Recovery Act 2007

**Waste Avoidance and Resource Recovery
(Container Deposit Scheme) Amendment
Regulations 2020****SL 2020/191**

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Waste Avoidance and Resource Recovery (Container Deposit Scheme) Amendment Regulations 2020*.

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 (Container Deposit Scheme) Regulations 2019*.

4. Regulation 3 amended

- (1) In regulation 3(1) insert in alphabetical order:

subsidiary has the meaning given in the *Corporations Act 2001* (Commonwealth) section 9.

- (2) In regulation 3(1) in the definition of *scheme participant* delete “Act.” and insert:

Act;

5. Regulation 3A amended

In regulation 3A(1) in the definition of *cordial* paragraph (a) delete “the following” and insert:

all of the following

6. Regulation 3H amended

Delete regulation 3H(3)(b)(iv) and insert:

- (iv) is not fewer than 8, and not more than 14, digits.

7. Part 2A Division 5 Subdivision 1 heading replaced

Delete the heading to Part 2A Division 5 Subdivision 1 and insert:

Subdivision 1 — Sampling plans and eligible container factors

8. Regulation 4ZC amended

In regulation 4ZC in the definition of *approved sampling plan* delete “the document approved by the CEO under regulation 4ZD(3),” and insert:

a document approved by the CEO under regulation 4ZD(3) for a recovery amount protocol,

9. Regulation 4ZD amended

- (1) In regulation 4ZD(1) delete “plan.” and insert:

plan for a recovery amount protocol.

- (2) In regulation 4ZD(2) delete “a determination under regulation 4ZG(1),” and insert:

determinations under regulation 4ZG(1) in relation to the recovery amount protocol,

- (3) After regulation 4ZD(2) insert:

- (2A) The draft sampling plan must also set out the things that the Coordinator proposes that MRF operators be required, or may be required, to do for the purpose of or in relation to —

- (a) determining numbers of containers for the purposes of the recovery amount protocol and verifying any determinations; or
- (b) estimating numbers of containers for the purposes of the recovery amount protocol and verifying any estimates.

- (4) In regulation 4ZD(6) delete “the approved” and insert:

each approved

10. Regulation 4ZE amended

- (1) In regulation 4ZE(1):

- (a) delete “the sampling plan,” and insert:

an approved sampling plan,

- (b) delete “amended sampling plan” and insert:

amended approved sampling plan

- (2) In regulation 4ZE(2):

- (a) delete “a sampling plan” and insert:

an approved sampling plan

- (b) delete “amended sampling plan” and insert:

amended approved sampling plan

Note: The heading to amended regulation 4ZE is to read as follows:

Amendment of approved sampling plan

11. Regulation 4ZF amended

Delete regulation 4ZF(a) and insert:

- (a) cooperate with the conduct of any audit, or other procedure, carried out under an approved sampling plan by an independent auditor; and

12. Regulation 4ZG amended

- (1) In regulation 4ZG(1) delete “The” and insert:

Subject to subregulation (5), in relation to each recovery amount protocol, the

- (2) In regulation 4ZG(2)(a) delete “plan; and” and insert:

plan for the recovery amount protocol; and

- (3) After regulation 4ZG(4) insert:

- (5) In relation to a recovery amount protocol, the CEO may, by written notice, advise the Coordinator that the Coordinator is not required to make a determination under subregulation (1) for a material type specified in the notice.
- (6) In deciding whether to give a notice under subregulation (5) in relation to a material type, the CEO must consider how likely it is that any estimate determined under subregulation (1) for the material type will be used under the recovery amount protocol for the purpose of calculating payments.

13. Regulation 4ZI amended

In regulation 4ZI(2):

- (a) delete “both” and insert:

more

(b) delete paragraph (b) and insert:

- (b) provide for payments under a material recovery agreement for a quantity of containers to be calculated by reference to an estimate, determined using the eligible container factor for the material type of which the containers are made, of the number of containers in the quantity;
- (c) provide for payments under a material recovery agreement for a quantity of containers to be calculated by reference to an estimate, determined in a way permitted by the recovery amount protocol (other than the way referred to in paragraph (b)), of the number of containers in the quantity.

14. Regulation 7A amended

In regulation 7A(1) in the definition of *specified counterparty* paragraph (b) delete “(as defined in the *Corporations Act 2001* (Commonwealth) section 9)”.

15. Regulation 10 amended

(1) In regulation 10(1) in the definition of *preliminary year*:

(a) delete paragraph (a) and insert:

- (a) the period starting on the day on which the *Waste Avoidance and Resource Recovery (Container Deposit Scheme) Amendment Regulations 2020* regulation 15 comes into operation and ending on 30 June 2021;

(b) in paragraph (b) delete “1 July 2020;” and insert:

1 July 2021;

(c) in paragraph (c) delete “1 July 2021.” and insert:

1 July 2022.

(2) In regulation 10(3):

(a) delete paragraph (a) and insert:

- (a) for the preliminary year starting on the day on which the *Waste Avoidance and Resource Recovery (Container Deposit Scheme) Amendment Regulations 2020* regulation 15

comes into operation — a time directed by the CEO; and

- (b) in paragraph (b) delete “1 July 2020 — 1 June 2020; and” and insert:

1 July 2021 — 1 June 2021; and

- (c) in paragraph (c) delete “1 July 2021 — 1 June 2021.” and insert:

1 July 2022 — 1 June 2022.

16. Regulation 11 amended

In regulation 11(a) delete “1 July 2022; and” and insert:

1 July 2023; and

17. Regulation 17 replaced

Delete regulation 17 and insert:

17. Minister may require reports for periods of less than 3 months

- (1) The Minister may, by written notice, require the Coordinator to give the Minister a report about its operations for a period specified in the notice (the *specified period*) that is less than 3 months.
- (2) The report must —
- (a) subject to subregulation (3), be given to the Minister within 20 business days after —
 - (i) the last day of the specified period; or
 - (ii) if the Minister’s notice is given to the Coordinator after the end of the specified period — the day on which the Minister’s notice is given to the Coordinator;
 - and
 - (b) be given to the Minister in a manner approved by the Minister; and
 - (c) include the following information —
 - (i) if the specified period is 1 month — the information that the Reporting Code specifies must be included in a report for 1 month;

- (ii) in any other case — the information that the Minister's notice specifies must be included;
 - and
 - (d) be signed by the chief executive officer (however described) of the Coordinator.
- (3) If the specified period is a period other than 1 month and the Minister considers it appropriate having regard to the length of the specified period, the Minister's notice may require the report to be given to the Minister within a period that is different to the period of 20 business days referred to in subregulation (2)(a).

18. Regulation 20 amended

- (1) At the beginning of regulation 20 insert:
- (1) In this regulation —
approved recycler means a person who is an approved recycler under regulation 9.
- (2) In regulation 20:
- (a) delete "For" and insert:
 - (2) For
 - (b) after paragraph (b) insert:
 - (ba) any amount received by the Coordinator, or by any of its subsidiaries, from an approved recycler in respect of the sale of containers for the purpose of the containers being recycled;
 - (c) in paragraph (c) delete "process;" and insert:
process (to the extent not covered by paragraph (ba));
 - (d) after paragraph (c) insert:
 - (ca) any amount that is refunded under the *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth) —
 - (i) to the Coordinator; or
 - (ii) to a subsidiary of the Coordinator that performs tasks for the Coordinator in respect of the Coordinator's functions;

- (cb) any amount of interest, in respect of the late payment of a refund referred to in paragraph (ca), paid on behalf of the Commonwealth —
 - (i) to the Coordinator; or
 - (ii) to a subsidiary of the Coordinator that performs tasks for the Coordinator in respect of the Coordinator's functions;

R. NEILSON, Clerk of the Executive Council.