Waste Reduction and Recycling and Other Legislation Amendment Regulation (No. 1) 2013

Explanatory Notes for SL 2013 No. 182

made under the

Environmental Protection Act 1994
Waste Reduction and Recycling Act 2011

General Outline

Short title

The short title of the regulation is the Waste Reduction and Recycling and Other Legislation Amendment Regulation (No. 1) 2013.

Authorising law

The regulation is made under the head of power contained in section 270 of the *Waste Reduction and Recycling Act 2011* and s580 of the *Environmental Protection Act 1994*.

Policy objectives and the reasons for them

The objective of the Regulation is to provide ensure the effective and efficient administration and enforcement of the objects and provisions of the *Environmental Protection Act 1994* and the *Waste Reduction and Recycling Act 2011*.

The Regulation amends the *Waste Reduction and Recycling Regulation 2011* to:

- give effect to amendments to the *Waste Reduction and Recycling Act 2011* as a result of the repeal of the waste levy;
- enable a local government to designate a waste area for collection of waste by the local government; and
- enable a local government to determine the frequency of servicing for waste collection.

The Regulation also repeals specific sections of the *Environmental Protection (Waste Management) Regulation 2000* in relation to:

- design rules for portable toilets, other waste equipment and sanitary conveniences;
- specific regulatory requirements for sanitary conveniences where the local government arranges for the removal and disposal of nightsoil; and
- the provision stating the specific frequency for waste collection where the local government provides the service.

The Regulation also amends the *Environmental Protection Regulation 2008* to:

- correct drafting errors in relation to specific environmentally relevant activities including intensive livestock, asphalt manufacture and chemical storage;
- exclude certain wastes from the definition of regulated waste; and
- clarify the application of the aggregate environmental score in relation to resource activities.

The Regulation is an important mechanism for achieving the objectives of both the *Environmental Protection Act 1994* and the *Waste Reduction and Recycling Act 2011.* The amendment in relation to the exclusion of certain regulated wastes is a risk-based approach to the management of these end-of-life products. It removes impediments to the effective recovery of these end-of-life products while still maintaining an appropriate level of environmental protection for higher risk wastes.

The Regulation also provides more flexibility in decision making for various stakeholders and removes unintended costs in relation to fees for certain sectors.

Achievement of policy objectives

The policy objectives of the Regulation are to be achieved by:

- excluding lower risk wastes, such as intact or partly disassembled televisions and computers, from being regulated wastes
- defining certain groundwater from industrial processes as ‘suitable quality waters’ for the purposes of exclusion from the definition of regulated waste
- allowing local governments the ability to determine the most appropriate level of servicing frequency for waste collection services provided by the local government
- amending drafting errors in relation to the application of annual fees for certain environmentally relevant activities
- clarifying the application of aggregate environmental scores for particular resource activities

The only way that the policy objectives can be achieved is through amendments to the legislation.

Consistency with policy objectives of authorising

This Regulation is consistent with the main objectives of the *Environmental Protection Act 1994* and the *Waste Reduction and Recycling Act 2011*: that is, to promote waste avoidance and reduction; facilitate increased resource recovery; reduce the overall impact of waste generation; and to protect Queensland’s environment while allowing for development that

improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends (***ecologically sustainable development***).

Inconsistency with policy objectives of other legislation

This regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

There are no alternatives to achieving the policy objectives.

Benefits and costs of implementation

There are no implementation costs associated with the Regulation. The Regulation provides benefits such as removing the impediments to improved resource recovery and transport efficiencies. It also benefits smaller intensive livestock activities by correcting drafting errors in relation to the thresholds for the application of annual fees.

Consistency with fundamental legislative principles

The *Legislative Standards Act 1992* outlines a number of fundamental legislative principles. These principles require that the legislation has sufficient regard to the rights and liberties of individuals and the institution of Parliament.

The Regulation is consistent with those and the other fundamental legislative principles, including natural justice, appropriate review and delegation of administrative power, clarity and precision of legislation, adequacy of the head of power to make subordinate legislation and consistency with its Act, and regard to Aboriginal tradition and Torres Strait Island custom.

Consultation

Consultation has been undertaken with various impacted stakeholders. Stakeholders consulted include the Coal Seam Gas sector, the Waste, Recycling Industry Association of Queensland, the Local Government Association of Queensland, individual local governments, the Department of Local Government and the Department of Agriculture, Fisheries and Forestry.

The *Environmental Protection (Waste Management) Regulation 2000* was due to expire on 1 September 2013. However, an exemption from expiry has been granted for 12 months. Consultation with local government and industry sectors on proposals in relation to the expiring legislation indicated support for the removal of specific provisions around local government administration of sanitary convenience requirements and portable toilets design rules. Although the Regulation is now no longer expiring this year these provisions have been removed through this amendment regulation process.

The Office of Best Practice Regulation was also consulted in relation to the need for a Regulatory Impact Statement (RIS). No RIS was necessary as the changes do not impose a significant impact.

Notes on Provisions

Part 1 Preliminary

Section 1 Short title

This section states that the short title of this legislation is the *Waste Reduction and Recycling and Other Legislation Amendment Regulation (No. 1) 2013* (the Regulation).

Part 2 Amendment of Environmental Protection Regulation 2008

Section 2 Regulation amended

This section states that this part amends the *Environmental Protection Regulation 2008*.

Section 3 Amendment of s14 (what is the *aggregate environmental score* for an environmentally relevant activity)

This section amends section 14 of the *Environmental Protection Regulation 2008* to clarify the use of schedules 2 and 2A in how the aggregate environmental score (AES) is used to calculate the annual fee.

The policy intent has always been that the operator must pay the highest AES on the project site – regardless of whether that AES is in schedule 2 or schedule 2A. However, because of the nature of sections 18 and 19 of the *Environmental Protection Act 1994*, it is arguable that a resource activity cannot include an activity which is prescribed to be an environmentally relevant activity (ERA) by schedule 2 (a 'prescribed ERA'). However, it is quite clear that operators can and do carry out these activities as part of their environmental authority for the resource activity. This has caused confusion about the fee which must be paid.

The policy intent has always been that the operator must pay the highest AES on the project site – regardless of whether that AES is specified in schedule 2 or schedule 2A.

Environmental authorities contain a schedule of activities which are authorised under the authority. For resource activities, this includes a list of ancillary activities which are carried out as part of the resource activity, which would be prescribed ERAs if it wasn't for the fact that the environmental authority is for a resource activity.

Consequently, this section has been amended to remove any doubt that the annual fee is paid on the basis of the highest AES on site.

Section 4 Amendment of s65 (What is *regulated waste*)

This section amends the definition of regulated waste in the *Environmental Protection Regulation 2008*.

Subsection (1) amends section 65(1)(b) to include 'part 1' after 'schedule 7'. This ensures that only the wastes listed in part 1 of schedule 7 are prescribed as a regulated waste.

Subsection (2) inserts a new subsection 65(3) in the *Environmental Protection Regulation 2008*. This new subsection states that waste is not a regulated waste if it is mentioned in schedule 7, part 2.

This amendment has the effect of exempting certain types of waste from being a regulated waste and removes them from the requirements of regulated waste activities such as storage, transport and recycling. This removes impediments to the effective recovery of these end-of-life products while still maintaining an appropriate level of environmental protection for higher risk wastes.

Section 5 Amendment of sch 2 (Prescribed ERAs and aggregate environmental score

This section amends schedule 2 of the *Environmental Protection Regulation 2008* in relation to particular prescribed ERAs.

Subsections (1) to (7) and subsection (10) are corrections which replace the words 'or more' with 'more than' to the thresholds of the six prescribed ERAs:

- Intensive animal feedlotting (ERA 2)
- Pig keeping (ERA 3)
- Asphalt manufacturing (ERA 6)
- Chemical storage (ERA 8)
- Gas producing (ERA 10)
- Timber and laminated product manufacturing (ERA 48).

These amendments correct errors made in the *Environmental Protection and Other Legislation Amendment Regulation (No. 1) 2013*, which commenced on 31 March 2013. The errors resulted in incorrect regulation of certain activity thresholds and captured a greater number of activities than intended. The amendments ensure that the correct threshold levels are applied.

Subsections (8) and (9) amend ERA 10 (Gas producing) to delete subsection (2). ERA 10 specifies that it includes a reference to underground and above ground gasification of coal. Gasification of coal is generally a resource activity and therefore cannot be prescribed to be a 'prescribed ERA' in schedule 2. Consequently, subsection (2) is causing confusion with industry about what the ERA is intended to capture. Deleting subsection (2) removes this confusion.

Subsections (11) to (14) correct ERA 48 (Timber and laminated product fabrication) to capture 'manufacturing of reconstituted timber products and laminated products' so that it meets the original policy intent.

In 2008 when the *Environmental Protection Regulation 2008* was remade, the intention was to regulate 'fabrication of wooden products' and 'manufacturing of reconstituted timber products and laminated products' in ERA 48. Fabricating wooden products included fabrication of cabinets and furniture through the definition of wooden product given in the regulation.

The first threshold of this ERA (wooden product manufacturing) that related to the making of cabinets and furniture was deleted on 31 March 2013. The terms for 'manufacturing' and 'fabrication' used in describing these activities had definitions that varied from common usage. Combined with the retention of the definition of 'fabrication', this had the potential to result in confusion in the interpretation of the regulated activity. These amendments are intended to remove that potential for misinterpretation.

Subsections (15), (16), (17) and (18) amend ERA 56 (Regulated waste storage). Subsection (15) omits reference to (i) fewer than 500 batteries and (v) less than 5000 litres of used oil from the 28 day storage requirement.

Subsection (15) amends ERA 56 (Regulated waste storage) to delete the exemption for fewer than 500 batteries (56(2)(c)(i)) and less than 5000 litres of used oil (56(2)(c)(iv)) where it is being stored for no more than 28 days. This is because subsection (18) inserts a new section 56(2)(e) to pick up exemptions for these wastes.

Subsections (16) and (17) renumber subsections within ERA 56 to account for the omission and addition of these paragraphs.

Subsection (16) renumbers section 56(2) to account for the omission of these paragraphs. Subsection (17) renumbers current paragraphs (e) and (f) for section 56(2) to (f) and (g) to accommodate the insertion of a new paragraph (e).

Subsection (18) inserts a new section 56(2)(e). This paragraph provides for storing at a facility any of the following, awaiting removal from the facility for recycling, reprocessing or treatment, not more than 3000 used lead acid batteries up to a total mass of 45 tonnes and not more than 5000L of waste oil.

The amendment means that, at any time, the threshold for lead acid batteries and waste oil cannot be exceeded without triggering the need for an environmental authority. It also means that batteries and used oil that are being stored for disposal will require an environmental authority. The storage quantity threshold has been increased to allow regional areas to collect and store sufficient quantity to make collection and recycling a more viable option.

Section 6 Amendment of sch 2A (Aggregate environmental scores for particular resource activities)

This section amends schedule 2A of the *Environmental Protection Regulation 2008* to clarify the annual fee when a resource activity includes other ancillary activities.

Item 8 of the schedule currently refers to a petroleum activity, other than a petroleum activity mentioned in items 1 to 7, that includes 1 or more prescribed ERAs for which an aggregate environmental score (AES) is stated.

However, because of the nature of sections 18 and 19 of the *Environmental Protection Act 1994*, it is arguable that a petroleum activity cannot include an activity prescribed to be an environmentally relevant activity (ERA) by schedule 2 (a 'prescribed ERA'). However, it is quite clear that operators can and do carry out these activities as part of their environmental authority for the petroleum activity. This has caused confusion about when this fee is payable.

Environmental authorities contain a schedule of activities which are authorised under the authority. For resource activities, this includes a list of ancillary activities which are carried out as part of the resource activity, which would be prescribed ERAs if it wasn't for the fact that the environmental authority is for a resource activity.

In addition, the combination of the old schedules 5 and 6 into schedule 2A and the redrafting of section 120 of the *Environmental Protection Regulation 2008* have caused confusion with terminology. Consequently, it provides greater clarity if Item 8 applies to petroleum or GHG storage activities that include 1 or more activities mentioned in schedule 2 that have an AES. This item only applies if items 1 to 7 do not apply, since a petroleum activity can involve both a high hazard dam (for example) and an activity described in schedule 2. Since the annual fee must be based on the highest AES, and item 6 has a higher AES than item 8, the annual fee would be based on the AES of 165 in this example.

Item 9 of schedule 2A was previously contained in schedule 6 of the *Environmental Protection Regulation 2008*, which meant that it only applied to mining activities. When the old schedule 5 and 6 were combined into schedule 2A, this limitation was not maintained, which has caused confusion about what fee in schedule 2A should be paid for a petroleum activity that includes drilling, costeaning, pitting or carrying out geological surveys causing significant disturbance. Item 9 could be interpreted to capture all petroleum activities because of "drilling" (i.e. it could mean that low-risk petroleum activities could be required to pay an annual fee of $1766 instead of the current $551). This was not the policy intent.

Consequently, this item has been amended to ensure that it only applies to mining activities.

Item 20 of schedule 2A has been amended with a minor drafting change which was made because the preferred drafting approach is to use the singular. Since the amended item 8 will refer to the singular ('petroleum activity'), so item 20 has also been amended for consistency.

Section 7 Amendment of sch 5 (Environmental objective assessment)

This section corrects the note in schedule 5, part 3, table 1 (Groundwater) to reference the correct section of the *Environmental Protection Regulation 2008* in the note. The note previously made an incorrect reference to section 56 which was deleted by the *Environmental Protection and Other Legislation Amendment Regulation (No. 1) 2013*. The reference should be to section 63 which specifies when activities that release directly to groundwater are prohibited.

Section 8 Replacement of sch 7 (Regulated waste)

This section amends schedule 7 (Regulated waste) of the *Environmental Protection Regulation 2008* which prescribes types of waste which are regulated waste.

Schedule 7 has been amended to provide two parts. Part 1 provides the original regulated waste list. Part 2 has been inserted to provide for exclusions from the definition of regulated waste under the new section 65(3) of the *Environmental Protection Regulation 2008*.

The purpose of the definition of regulated waste is to add an extra level of regulation to the management of wastes that have the potential to cause long term and serious environmental harm.

Part 2 excludes specific end-of-life products, including, for example, televisions, computers, electronic equipment, mobile phones and mobile phone accessories, batteries typically used in electronic devices, and whitegoods.

Part 2 also excludes the residue resulting from recycling treated timber products such as power poles and bridge timbers. Residue may include sawdust, shavings and timber off-cuts. The exclusion does not extend to treated timber residue from the manufacture of treated timber products such as roof trusses.

Groundwater or treated groundwater of a specified quality that is brought to the surface as part of an industrial process is also excluded. After considering the risk profiles of various qualities of produced water and potential impacts on receiving environments likely to be affected by the movement of the water, it was determined that this quality of produced water does not need to be regulated waste.

The practical impact of these wastes no longer being regulated wastes means that the waste meeting the criteria under Part 2 is no longer required to be tracked and the storage, transport and treatment of these wastes is not an environmentally relevant activity.

Wastes that fall outside the criteria specified in Part 2 for the particular wastes are not excluded from being a regulated waste and will be subject to the regulatory provisions of regulated waste.

Wastes that fall outside the criteria specified in Part 2 for the particular wastes are not excluded from being a regulated waste and will be subject to the regulatory provisions of a regulated waste. For example, the exemption under part 2 for televisions and computers only relates to intact or partly disassembled televisions and computers. It does not cover broken or completely dismantled units. Broken televisions and computers are not covered by the exemption and would be subject to the requirements of a regulated waste.

Section 9 Amendment of sch 12 (Dictionary)

This section amends schedule 12, part 2 (Dictionary) to include reference to the definition of commercial waste that is contained in schedule 9 of the *Environmental Protection (Waste Management) Regulation 2000.*

This definition is required as the definition of regulated waste refers to regulated waste being commercial waste or industrial waste. The definition of commercial waste had previously been omitted in error.

Part 3 Amendment of Environmental Protection (Waste Management) Regulation 2000

Section 10 Regulation amended

This section amends the *Environmental Protection (Waste Management) Regulation 2000*.

Section 11 Omission of s 10G (Requirements for removal of general waste)

This section omits section 10G. This section places specific obligations on a local government where the local government has arranged for the removal of general waste from premises in relation to frequency of the waste removal.

During consultation local governments indicated that the requirement to remove waste within a specified timeframe was restricting exploration of options to provide a more efficient collection service. Several Councils were looking at options that could include collection of organic waste in with kerbside green waste services or moving to a fortnightly collection for non-putrescible wastes.

It was determined through consultation that a better approach would be to allow the local government providing the service to determine the frequency of servicing for the service to ensure the service can be provided in such a way as is appropriate to meet the needs of the community.

A general provision is now provided through amendment to the *Waste Reduction and Recycling Regulation 2011* to recognise the ability of local government to determine the servicing frequency.

Section 12 Amendment of s 10H (Local government may give notice about removal of general waste)

This section amends section 10H(1) of the *Environmental Protection (Waste Management) Regulation 2000* to insert a note stating that a local government may decide the frequency of general waste collection in designated areas under the *Waste Reduction and Recycling Regulation 2011*, section 7 .

This amendment recognises the omission of section 10G that pre-determined the servicing frequency for domestic or commercial waste and provides information stating that the local government may decide the frequency of servicing itself.

Section 13 Omission of pt 2A, div 4 (Storage and disposal of nightsoil)

This section omits division 4 of Part 2A in relation to the storage and disposal of nightsoil at premises. This division includes prohibition on the construction or use of cesspits at particular premises, requirements for placing, constructing or altering a prescribed sanitary convenience and disposal of nightsoil from premises that are not otherwise serviced.

The majority of these provisions relate to the storage and disposal of nightsoil from premises (serviced sanitary premises) where the local government has arranged for the collection and disposal of the nightsoil.

This division is being omitted as feedback during the consultation process indicated that these provisions were no longer required.

Section 14 Omission of s 67 (Prohibition on use of non-complying waste equipment)

This section omits section 67 in relation to a prohibition on non-complying waste equipment. This section is considered to be unnecessary as it only applied to a person who is the holder of a registration certificate or an environmental authority for carrying out an environmentally relevant activity for waste management under items 52 to 62 of the Environmental Protection Regulation 2008.

The provision states that, in carrying out the activity the person must not use waste equipment for which design rules are specified unless the equipment complies with the design rules.

As the section only applies to an environmentally relevant activity it was felt this this was a possible duplication and potential conflict with conditions of an environmental authority for that activity. Therefore, this section is not required.

Section 15 Omission of schs 8 and 8A

This section removes schedule 8 (Design rules) and schedule 8A (Requirements for particular prescribed sanitary conveniences) from the *Environmental Protection (Waste Management) Regulation 2000*.

As the design rules contained in schedule 8 only apply to a person who holds an environmental authority for an environmentally relevant activity for waste management, there is possible duplication and potential conflict, between the design rules and any condition placed on the activity.

The requirements of schedule 8A in relation to particular prescribed sanitary conveniences are no longer needed with the removal of sanitary convenience provisions from the *Environmental Protection (Waste Management) Regulation 2000*. These requirements relate specifically to sanitary conveniences at serviced sanitary premises (that is, premises where the local government has arranged for the removal and disposal of nightsoil).

Feedback from local governments supported the removal of these requirements as they are considered to be unnecessary duplication of administrative procedures.

Section 16 Amendment of sch 9 (Dictionary)

This section removes definitions that are now unnecessary as a result of removal of sections of the *Environmental Protection (Waste Management) Regulation 2000*. This includes definitions for *cesspit, chemical toilet, closet, composting toilet, incinerating toilet, prescribed sanitary convenience* and *serviced sanitary premises.*

Part 4 Amendment of Waste Reduction and Recycling Regulation 2011

Section 17 Regulation amended

This section amends the *Waste Reduction and Recycling Regulation 2011*.

Section 18 Omission of ss 4 and 5

This section removes sections 4 and 5 of the *Waste Reduction and Recycling Regulation 2011*. Section 4 contained the definition of commercial and industrial waste. Section 5 contained the definition of construction and demolition waste.

The definition of construction and demolition waste will be retained for section 44 of the Regulation; however, it is no longer referred to throughout the regulation. The definition was previously required as it was used for determining the levy liability for particular waste types.

The definition for commercial and industrial waste is no longer necessary as this was defined specifically for the application of the waste levy. While commercial waste and industrial waste is no longer defined in the *Waste Reduction and Recycling Regulation 2011* it is defined in the *Environmental Protection (Waste Management) Regulation 2000*.

Section 19 Amendment of s 6 (Regulated waste)

This section omits the definition of regulated waste from the *Waste Reduction and Recycling Regulation 2011*. This definition made specific reference to a levyable waste disposal site and is no longer relevant.

This clause inserts a new definition for regulated waste which states that, for the Act, schedule, definition *regulated waste*, waste is prescribed as regulated waste if it is regulated waste under the *Environmental Protection Regulation 2008*.

The definition of regulated waste in the Act states that regulated waste means waste that is prescribed under a regulation as regulated waste. The reference to regulated waste under the *Environmental Protection Regulation 2008* serves to prescribe waste as a regulated waste.

Section 20 Insertion of new pt 2A

This section inserts a new part after part 2 of the *Waste Reduction and Recycling Regulation 2011*.

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

Section 7 Designation of areas

New section 7 provides that a local government may designate areas within its local government area in which the local government may undertake general or green waste collection.

This section states that the local government may, by resolution, designate areas within its local government area in which the local government may conduct general waste or green waste collection. Subsection (1) also states that the local government may decide the frequency of servicing for the general waste collection in the designated areas.

The note accompanying this section states that where a local government conducts general waste collection as a significant business activity then the local government should refer to the relevant provisions of the *Local Government Act 2009* and the *City of Brisbane Act 2010* regarding competitive neutrality.

The effect of this section is to give a local government the ability to designate an area or areas within the local government area where the local government will provide or contract a general or green waste collection service. This section places no obligation on the local government to designate an area for the provision of a general or green waste collection service it simply allows a local government to designate an area or areas for the purposes of undertaking a collection service. It also places no obligation on the local government to conduct a service for all categories of general waste. For example, local governments traditionally conduct or arrange for domestic and recyclable waste collection services. Fewer provide commercial waste services. This provision doesn't mean that the local government must provide a commercial service where none was conducted previously by the local government, nor does it oblige the local government to provide a recyclable waste collection service where it may be uneconomic to do so.

This section also places no obligation on the occupier of premises to use the service conducted by the local government. This may, for example, apply to a business that has a national waste contract and they wish to use the services of this company for their Queensland operations. Simply because the business is located in a designated area places no obligation on the business to use the service if the local government conducts commercial waste services in that area.

Section 21 Replacement of pt 3 (Waste levy)

This section replaces Part 3 in relation to the waste levy and inserts a new Part 3. The waste levy provisions are no longer required as a consequence of the repeal of the waste levy through the *Waste Reduction and Recycling and Other Legislation Amendment Act 2013*.

Part 3 Obligations of operators of waste disposal sites

Division 1 Weighbridges

8 Weighbridge requirement provision—Act, s43

New section 8 provides the requirements for the installation of a weighbridge at a waste disposal site referred to in section 43 of the *Waste Reduction and Recycling Act 2011*.

Subsection (1) states that, in relation to section 43(1) of the Act, each waste disposal site that is located in a local government area mentioned in schedule 5 of the *Waste Reduction and Recycling Regulation 2011* is a prescribed waste disposal site.

New subsection (2) provides the prescribed day for the installation of a weighbridge in relation to section 43(2) of the Act. Section 43(2) of the Act applies to the operator of a waste disposal site required to hold an environmental authority for the disposal of more than 10,000 tonnes of waste in a year at the site. If the operator of a site is not required to hold an environmental authority for the disposal of more than 10,000t in a year at the site no obligation to install a weighbridge under this division is created.

If section 43(2) applies to the site on or before 31 December 2014 the prescribed day is 31 December 2014. If section 43(2) of the Act starts applying to the site after 31 December 2014, then the prescribed day occurs within one year after the day the section starts applying to the site.

For example, for section 8(2)(b), if on 1 March 2015 a site either:

- commences operation for the disposal of more than 10,000 tonnes of waste in a year at the site, or
- an environmental authority for an existing site is amended to increase the disposal threshold at the site to more than 10,000 tonnes. then the day prescribed for the installation of a weighbridge at that site is 1 March 2016.

Division 2 Waste data returns

9 Prescribed waste disposal site—Act, s 52

New section 9 states that, for section 52(1) of the Act, all waste disposal sites are prescribed.

Section 52 of the Act was amended by the *Waste Reduction and Recycling and Other Legislation Amendment Act 2013.* This section applies to a waste disposal site prescribed under a regulation.

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

New section 10 states that, 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—

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

Section 52(2) of the Act states that the operator of a waste disposal site must, on or before the day prescribed under a regulation, give the chief executive a waste data return in the approved form. This means that, for section 10, the required information is to be provided on or before the last business day (the day that is prescribed in regulation) of the relevant month for the reporting period.

11 Reporting period—Act, s 52

New section 11 provides the reporting period for section 52 of the Act. Section 52(2) of the Act states that the operator of a waste disposal site prescribed under a regulation must give the chief executive a data return in the approved form for the period prescribed in regulation. This is the reporting period.

Section 52(4) of the Act states that a regulation may prescribe different reporting periods for waste disposal sites of different types or sizes.

For section 52(2) of the Act, the periods, in a financial year, prescribed as a reporting period for a relevant schedule 5 site are—1 July to 30 September; 1 October to 31 December; 1 January to 31 March and 1 April to 30 June.

The reporting period prescribed for a waste disposal site other than a relevant schedule 5 site is a financial year.

A site other than a relevant schedule 5 site may be a waste disposal site that is located within a local government mentioned in schedule 5, but does not meet the disposal threshold of 5,000 tonnes in a year at the site or the site may be located outside a local government area mentioned in schedule 5.

For example, the prescribed reporting period for the operator of a waste disposal site located in Diamantina Shire Council is a financial year, which means they are only required to provide on waste data return. The operator of a relevant schedule 5 site is required to provide a minimum of four waste data returns in a financial year.

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

Section 22 Insertion of new s 38

This section inserts a new section 38 for part 4 in relation to a prescribed day for the preparation of a waste reduction and recycling plan by local and state government and planning entities.

This is necessary due to the amendments to the *Waste Reduction and Recycling Act 2011* as a result of the *Waste Reduction and Recycling and Other Legislation Amendment Act 2013* to remove from the Act the specific days for each entity that a waste reduction and recycling plan was required to be prepared.

Each of the sections in the Act refer to the preparation of a plan by a day prescribed in regulation.

38 Prescribed day—ss 123(1), 133(1) and 141(4)

New section 38 states that the prescribed day for the preparation of a waste reduction and recycling plan for local government (s123(1)), state government (s133(1)) and a planning entity (s141(4)) is 30 June 2015.

Section 23 Amendment of s 40 (Prescribed sector of reporting entities—Act, s 150)

This section amends section 40(b) of the Act to remove reference to ‘registration certificate’ and insert ‘environmental authority’. The *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* changed the terminology from registration

certificate to environmental authority and this is a consequential amendment to correct the reference.

Section 24 Amendment of s 44 (Prescribed recycling activity—Act, schedule, definition *recycling activity*)

This section amends section 44(2) to include a definition for construction and demolition waste. Construction and demolition waste means waste generated as a result of carrying out building work within the meaning of the *Building Act 1975*, section 5. Without limiting this meaning, it includes waste generated by building, repairing, altering or demolishing infrastructure for roads, bridges, tunnels, sewage, water, electricity, telecommunications, airports, docks or rail.

This definition is required as section 44(1) contains a reference to recycling construction and demolition waste as a prescribed recycling activity. Section 44 of the regulation prescribes additional recycling activities (as defined in the *Waste Reduction and Recycling Act 2011*) for the purposes of reporting on waste recovery and disposal as a reporting entity under Chapter 7, part 2 of the Act.

Section 25 Omission of sch 1 (Regulated waste)

This section omits schedule 1—Regulated waste from the *Waste Reduction and Recycling Regulation 2011*. This schedule is no longer necessary as schedule 7 of the *Environmental Protection Regulation 2008* contains the list of regulated wastes. Schedule1 was only required because the waste levy differentiated between high and low hazard regulated wastes for the purposes of calculating the levy value for those wastes. The repeal of the levy means that regulated waste is no longer referred to in the *Waste Reduction and Recycling Regulation 2011* and duplication of the regulated waste list is unnecessary.

Section 26 Amendment of sch 5 (Levy zones)

This section amends schedule 5 of the *Waste Reduction and Recycling Regulation 2011*.

Subsection (1) replaces the heading and authorising provision for schedule 5. While schedule 5 will be retained the heading of ‘Levy zone’ is no longer relevant. The authorising section has also changed due to the removal of several waste levy-related provisions. The amendment changes the heading to **‘Schedule 5—Local governments for waste disposal sites—weighbridge requirement provision’** to better reflect the application of this schedule.

Subsection (2) removes Goondiwindi Regional Council from this schedule. This has implications for waste disposal site operators within this local government area as they will no longer fall under the quarterly reporting obligations as a relevant schedule 5 site. The reporting obligations for sites located in the Goondiwindi Regional Council area will be annually with the prescribed day being the last business day in July each year.

While the waste levy was in place, this Council had questioned their inclusion in the levy zone due to the small size of their waste disposal sites and the potentially onerous requirements that could be placed on them.

It was decided to remove Goondiwindi from schedule 5 as the waste disposal sites within the local government area dispose of less than the threshold to install a weighbridge and, in many cases dispose of less than 5000 tonnes in a year which means these sites would fall under the annual waste reporting requirements irrespective of whether the Council is mentioned in schedule 5 or not.

Section 27 Omission of sch 6 (Weight measurement criteria)

This section omits schedule 6.This schedule contains information to assist operators of a waste disposal site in the conversion of volume to weight at a waste disposal site that does not have a weighbridge or where the weighbridge may be inoperable. This schedule was used in the calculation of the levy liability owed by the waste disposal site operator. The repeal of the levy means that this schedule is no longer required.

Section 28 Amendment of sch 9 (Dictionary)

This section amends the dictionary in schedule 9.

Subsection (1) removes definitions for terms that were required for the application of the waste levy. These include definitions for *acid sulphate soil, articulated motor vehicle, authorised on-site use, car, C&D, C&I, chemical waste, construction and demolition waste, compactor truck, delivery vehicle, development approval, GCM, GVM, light commercial vehicle, motorbike, motor vehicle, MSW, relevant environmental approval, rigid truck, skip-bin, skip-bin truck, trailer, truck, van or ute*.

These definitions all specifically related to the application of the levy or to the use of a method of determining the weight of waste delivered to a waste disposal site where there was no weighbridge or the weighbridge was inoperable for the purposes of calculating the amount of levyable waste received.

Subsection (2) inserts definitions for *general waste, green waste* and *relevant schedule 5 site* as these are new terms referenced in the regulation.

General waste refers to schedule 9 of the *Environmental Protection (Waste Management) Regulation 2000.*

Green waste has the meaning given in the Environmental Protection (Waste Management) Regulation 2000, schedule 9.

For Part 3, a ***relevant schedule 5 site*** is a waste disposal site that is located in a local government area that is mentioned in schedule 5 and the operator of that site is required to hold an environmental authority for the disposal of more than 5000t of waste in a year at the site.