

Australian Capital Territory

Waste Management and Resource Recovery Act 2016

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and A2025-29)

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About this republication

The republished law

This is a republication of the *Waste Management and Resource Recovery Act 2016* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 26 November 2025. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 26 November 2025.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is $160 for an individual and $810 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Waste Management and Resource Recovery Act 2016

Contents

Page

Part 1 Preliminary

1 Name of Act 2
3 Dictionary 2
4 Notes 2
5 Offences against Act—application of Criminal Code etc 2
6 Relationship with Emergencies Act 2004 3
7 Relationship with other laws 3

Part 2 Objects and principles

8 Objects of Act 4
9 Principles to be taken into account 4

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Page

Part 3 Important concepts

10 Meaning of *waste* 6
11 Meaning of *waste activity* 6
12 Meaning of *waste management business* 7
13 Meaning of *waste transporter* 7
14 Meaning of *waste facility* 8
15 Meaning of *waste facility licence* 8

Part 4 Waste manager

16 Appointment 9
17 Functions 9

Part 5 Waste facility licences

18 Requirement to hold a waste facility licence 10
19 Application for licence 10
20 Waste manager may request more information 10
21 Change of information must be provided 11
22 Decision about application for licence 11
23 Licence conditions 13
24 Form of licence 13
25 Register of waste facility licences 14
26 Licensee must update details 14
27 Licence not transferable 15
28 Surrender of licence 15
29 Term of licence 16

Part 6 Waste transporter registration

30 Requirement to be registered as waste transporter 17
31 Application to be registered 17
32 Waste manager may request more information 17
33 Change of information must be provided 18
34 Decision about application for registration 18
34A Registration conditions 19
35 Waste transporter must display registration number 20
36 Entry in register not transferable 20

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		Page
37	Register of waste transporters	20
38	Waste transporter must update details	21
41	Termination of registration by registered waste transporter	21
42	Term of registration	22

Part 7 Regulatory action

43	Definitions—pt 7	23
44	Waste manager may consider regulatory action against person	24
45	Notification of proposed regulatory action	24
46	Taking regulatory action	25
47	Not taking regulatory action	27
48	Immediate suspension of licence or registration if risk to public safety	27
49	Effect of suspension	28
50	Offence—fail to return amended, suspended or cancelled licence	28
51	Action by waste manager in relation to amended or suspended licence	29

Part 8 Financial assurances

52	Waste manager may require financial assurance	30
53	Show cause why financial assurance should not be provided	31
54	Non-provision of financial assurance	31
55	Claim on or realisation of financial assurance	32
56	Notice before claim on or realisation of financial assurance	32
57	Financial assurance not affect other action	33
58	Recovery of extra costs	33
59	Money held by Territory as financial assurance	34

Part 9 Codes of practice

60	Code of practice—approval	36
61	Failure to comply with approved code of practice	36
62	Direction to comply with approved code	37

Part 10 Waste storage and collection

63	Definitions—pt 10	39
64	Waste collection service	39

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Part 10A Container deposit scheme

Division 10A.1 General

64A Objects—pt 10A 40
64B Definitions—pt 10A 40
64C Meaning of *beverage*—pt 10A 42
64D Meaning of *collection point*—pt 10A 43
64E Meaning of *container*—pt 10A 43
64F Meaning of *refund amount*—pt 10A 43
64G Meaning of *refund marking*—pt 10A 44

Division 10A.2 Scheme administration

64H Scheme administration agreements 44
64I Amending and ending scheme administration agreements 45

Division 10A.3 Scheme coordinator agreement

64J Content of scheme coordinator agreement 46
64K Approval of network arrangements 47
64L Payment of refund amounts to material recovery facility operators 48
64M Term of scheme coordinator agreement 49

Division 10A.4 Network operator agreements

64N Content of network operator agreements 49
64O Approval of collection point arrangements 50

Division 10A.5 Scheme compliance

64P Inconsistent provisions void 51
64Q Penalties for contravention 52
64R Monitoring and enforcement of compliance 52
64S Performance audit 53
64T Register of approved containers and collection points 54
64U Reports by scheme coordinator 55

Division 10A.6 Supply and collection of containers

Subdivision 10A.6.1 Supply of approved containers

64V Container approvals 55
64W Requirement for supply arrangement with scheme coordinator and container approval 57
64X Requirement for refund markings on containers 57

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

Subdivision 10A.6.2 Collection of containers

64Y Refund amounts payable by collection point operators 58
64Z Refund declarations and proof of identity 59
64ZA Offence—claiming refund for containers not subject to scheme 60

Division 10A.7 Miscellaneous

64ZB Authorisations for Competition and Consumer Act 2010 (Cwlth) 62

Part 11 Reporting

65 Waste activity report 63
66 Offence—fail to report to waste manager 63

Part 12 Exemptions

67 Declaration exempting person or activity 64
68 Renewal of declaration 65
69 Term of declaration 65

Part 13 Enforcement

Division 13.1 Directions

70 Direction to stop contravening Act etc 66
71 Directions—stockpiling materials and delivering waste 67
72 Offence—fail to comply with direction 67

Division 13.2 Authorised people

Subdivision 13.2.1 General

73 Definitions—div 13.2 68
74 Appointment 69
75 Identity cards 69
76 Authorised person must show identity card on exercising power 70

Subdivision 13.2.2 Powers

77 Power to enter premises 70
78 Production of identity card 72
79 Consent to entry 72
80 General powers on entry to premises 73
81 Power to seize things 74
82 Direction to give name and address 75

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Page

83 Offence—fail to comply with direction to give name and address 76

Subdivision 13.2.3 Search warrants

84 Warrants generally 77
85 Warrants—application other than in person 78
86 Search warrants—announcement before entry 80
87 Details of search warrant to be given to occupier etc 81
88 Occupier entitled to be present during search etc 81

Subdivision 13.2.4 Return and forfeiture of things seized

89 Receipt for things seized 81
90 Moving things to another place for examination or processing under search warrant 82
91 Access to things seized 83
92 Return of things seized 83

Subdivision 13.2.5 Miscellaneous

93 Damage etc to be minimised 85
94 Compensation for exercise of enforcement powers 85

Part 14 Enforceable undertakings

95 Definitions—pt 14 87
96 Making of proposed undertakings 87
97 Acceptance of proposed undertaking 89
98 Register of enforceable undertakings 89
99 Withdrawal from or amendment of enforceable undertaking 90
100 Ending enforceable undertaking 90
101 Undertaking not admission of fault etc 90
102 Contravention of enforceable undertakings 91
103 Effect of enforceable undertaking on other proceedings 91

Part 15 Offences

Division 15.1 Liability of managers etc

104 Criminal liability of partners—pt 15 92
105 Criminal liability of executive officers—pt 15 93

Division 15.2 Specific offences

106 Meaning of *waste site*—div 15.2 95

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

		Page
107	Unauthorised waste activity	95
108	Fail to comply with condition of licence or registration	96
109	Unlawful transporting or depositing of waste	96
110	Use of place as waste facility without lawful authority	98
111	Consent required for certain waste activities	99
112	False or misleading information about waste	99
113	Taking prescribed waste to landfill or other facility	101

Part 16 Reconsideration of decisions

114	Definitions—pt 16	102
115	Applications for reconsideration	102
116	Notice to ACAT of application	103
117	Reconsideration	103
118	No action by waste manager within time	104
119	Notice of decisions on reconsideration	104

Part 17 Notification and review of decisions

120	Definitions—pt 17	105
121	Reviewable decision notices	105
122	Applications for review	105

Part 18 Miscellaneous

123	Delegation	106
124	Protection from liability	106
125	Service of documents	107
126	Determination of fees and rates of interest	107
128	Regulation-making power	108

Schedule 1 Reviewable decisions **109**

Dictionary **110**

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Page

Endnotes

1 About the endnotes 115
2 Abbreviation key 115
3 Legislation history 116
4 Amendment history 118
5 Earlier republications 124
6 Expired transitional or validating provisions 125

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Australian Capital Territory

Waste Management and Resource Recovery Act 2016

An Act to provide for the minimisation of waste, the recovery, recycling and re-use of resources, and for other purposes

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Part 1 Preliminary

1 Name of Act

This Act is the *Waste Management and Resource Recovery Act 2016*.

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (***signpost definitions***) to other terms defined elsewhere in this Act.

For example, the signpost definition '***affected person*** for an original decision, for part 16 (Reconsideration of decisions)—see section 114.' means that the term 'affected person' is defined in that section for part 16.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg ***conduct***, ***intention***, ***recklessness*** and ***strict liability***).

Note 2 *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

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6 Relationship with Emergencies Act 2004

(1) This Act does not apply to the exercise or purported exercise by a relevant person of a function under the *Emergencies Act 2004* for the purpose of protecting life or property, or controlling, extinguishing or preventing the spread of a fire.

(2) In this section:

emergency controller—see the *Emergencies Act 2004*, dictionary.

emergency service—see the *Emergencies Act 2004*, dictionary.

relevant person means—

(a) an emergency controller; or

(b) the chief officer or a member of an emergency service; or

(c) any other person under the control of—

(i) an emergency controller; or

(ii) the chief officer of an emergency service; or

(d) a police officer.

7 Relationship with other laws

This Act does not affect the operation of any other territory law.

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Part 2 Objects and principles

8 Objects of Act

The objects of this Act are to—

(a) manage waste according to the following hierarchy:

(i) minimise the generation of waste;

(ii) maximise the recovery and re-use of resources;

(iii) minimise the amount of waste that goes to landfill; and

(b) support innovation and investment in waste management; and

(c) promote responsibility for waste reduction; and

(d) promote best-practice waste management.

9 Principles to be taken into account

(1) The objects of this Act are to be achieved by taking into account the following principles:

(a) the inter-generational equity principle;

(b) the polluter pays principle;

(c) the precautionary principle;

(d) the proximity principle;

(e) the waste minimisation principle.

(2) In this section:

inter-generational equity principle means that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

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polluter pays principle means that polluters should bear the appropriate share of the costs that arise from their activities.

precautionary principle means that, if there is a threat of serious or irreversible environmental damage, a lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

proximity principle means that waste and recovered resources should be managed as close to the source of generation as possible.

waste minimisation principle means that waste is handled in a way that minimises and, if practicable, eliminates harm to the environment.

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Part 3 Important concepts

10 Meaning of *waste*

In this Act:

waste includes the following:

(a) any substance (whether solid, liquid or gaseous) that is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration in the environment;

(b) any discarded, rejected, unwanted, surplus or abandoned substance, whether or not intended for sale, recycling, reprocessing, recovery or purification by a separate operation from that which produced it;

(c) any other substance declared by regulation to be waste.

11 Meaning of *waste activity*

In this Act:

waste activity—

(a) means any of the following activities carried out by a waste management business:

(i) collecting waste;

(ii) transporting waste;

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(iii) storing, sorting, treating, processing, or disposing of waste; and

Example—processing of waste

- generating energy from waste material

Example—disposing of waste

- depositing waste in landfill

Note 1 Collecting or transporting waste is carried out by a ***waste transporter*** (see s 13).

Note 2 Storing, sorting, treating, processing, or disposing of waste happens at a ***waste facility*** (see s 14).

(b) for part 9 (Codes of practice)—includes the generation of waste.

12 Meaning of *waste management business*

In this Act:

waste management business includes—

(a) any of the following carried on, by a person or a group of people acting together, with the purpose of providing services in relation to the handling of waste:

(i) a trade, industry, business or profession;

(ii) an activity carried on for a fee, benefit or reward; and

(b) a person or activity prescribed by regulation.

13 Meaning of *waste transporter*

In this Act:

waste transporter means a waste management business that does any of the following:

(a) collects waste;

(b) transports waste.

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14 Meaning of *waste facility*

In this Act:

waste facility—

(a) means a site used by a waste management business for the storage, sorting, treatment, processing, or disposal of waste; but

(b) does not include a reverse vending machine.

15 Meaning of *waste facility licence*

In this Act:

waste facility licence means a licence issued under section 22.

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Part 4 Waste manager

16 Appointment

(1) The director-general must appoint a public servant as the Waste Manager.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

(2) However, the director-general may appoint a person as the waste manager only if satisfied that the person has suitable qualifications and experience to exercise the functions of the waste manager.

(3) An appointment is a notifiable instrument.

17 Functions

(1) The waste manager's functions are—

(a) to administer this Act; and

(b) any other function given to the waste manager by this Act or another territory law.

(2) In the exercise of the waste manager's functions, the waste manager must have regard to the objects and principles stated in part 2 (Objects and principles).

Note A provision of a law that gives an entity (including a person) a function also gives the entity the powers necessary and convenient to exercise the function (see Legislation Act, s 196 (1) and dict, pt 1, defs of ***entity*** and ***function***).

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Part 5 Waste facility licences

18 Requirement to hold a waste facility licence

A person must not operate a waste facility unless the person holds a waste facility licence.

Note Section 107 (Unauthorised waste activity) makes it an offence to operate a waste facility without a licence.

19 Application for licence

(1) A person may apply to the waste manager for a licence.

(2) The application must—

(a) be in writing; and

(b) include any information prescribed by regulation.

Note Giving false or misleading information is an offence against the Criminal Code, s 338.

20 Waste manager may request more information

(1) The waste manager may, by written notice, require an applicant for a licence to give the waste manager more information—

(a) that the waste manager believes on reasonable grounds to be information needed to decide the application; and

(b) within a stated time; and

(c) at a stated place.

(2) If the applicant does not comply with a requirement in the notice, the waste manager may refuse to consider the application further.

Note A decision under this section is a reviewable decision (see s 120).

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21 Change of information must be provided

(1) This section applies if the information in an application for a licence changes before the application is decided.

(2) The applicant must give the waste manager written notice of the particulars of the change.

22 Decision about application for licence

(1) The waste manager must, not later than 56 days after the day the waste manager receives an application under section 19—

(a) approve the application; or

(b) refuse the application.

Note 1 Failure to approve an application within the required time is taken to be a decision not to approve the application (see *ACT Civil and Administrative Tribunal Act 2008*, s 12).

Note 2 A decision under this section is a reviewable decision (see s 120).

(2) However, before approving an application for a licence, the waste manager must consult an entity, prescribed by regulation.

Note Power to make a regulation includes power to make different provision in relation to different matters or different classes of matters, and to make a regulation that applies differently by reference to stated exceptions or factors (see Legislation Act, s 48).

(3) Also, the waste manager—

(a) may approve the application only if satisfied that the applicant complies, and is likely to continue to comply, with the requirements of this Act; and

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(b) may refuse the application if—

(i) the application is materially false or misleading; or

(ii) the applicant has, within 2 years before the application was made, committed an offence under this Act or a corresponding law of a State.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

(4) If the waste manager refuses the application, the waste manager must as soon as practicable tell the applicant, in writing, the reason for the refusal.

Note For how documents may be served, see the Legislation Act, pt 19.5.

(5) If the waste manager approves the application the waste manager must, as soon as practicable after deciding the application—

(a) tell the applicant—

(i) that the application is approved; and

(ii) that the applicant must pay a fee for the licence (the ***licence fee***) before the licence can be issued; and

(iii) the day the licence fee is due; and

(b) allocate a unique number for the licence; and

(c) as soon as practicable after the applicant has paid the licence fee—

(i) issue the licence; and

(ii) tell the applicant the unique number for the licence; and

(d) enter details for the licence in the register of waste facility licenses.

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23 Licence conditions

A licence is subject to—

(a) a condition that the licensee must comply with this Act; and

(b) any other condition the waste manager imposes when issuing the licence.

Examples—conditions—par (b)

1 stating how food waste must be managed at a waste facility

2 imposing time limits on the storage of skips after collection, before the skips must be taken to a waste facility

3 stating that a waste facility may not receive certain types of waste

4 imposing requirements about sorting or processing certain waste material before using the residual waste for energy generation

Note 1 A decision under this section is a reviewable decision (see s 120).

Note 2 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

24 Form of licence

(1) A licence must—

(a) be in writing; and

(b) include the following information:

(i) the name of the licensee;

(ii) a unique identifying number;

(iii) the term of the licence;

(iv) the conditions on the licence;

(v) any other information prescribed by regulation.

(2) A licence may include any other information the waste manager considers relevant.

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25 Register of waste facility licences

(1) The waste manager must keep a register of waste facility licences.

(2) The register must include—

(a) information, if any, prescribed by regulation; and

(b) any other information the waste manager considers relevant.

(3) The waste manager—

(a) may correct an error or omission in the register; and

(b) must change a detail included in the register to keep the register accurate and up-to-date.

(4) The waste manager must, without charge—

(a) make the register available to an authorised person; and

(b) make the information in the register prescribed by regulation for this paragraph available to the public in 1 or more of the following ways:

(i) making the information available for inspection during ordinary office hours at an ACT government office;

(ii) making the information accessible on an ACT government website, or by a link on an ACT government website;

(iii) if a person requests a copy of the information—giving the person a copy of the information.

Note The Territory privacy principles apply to the waste manager in relation to personal information held in the register (see *Information Privacy Act 2014*).

26 Licensee must update details

(1) This section applies if, to the knowledge of a licensee, any of the information mentioned in section 25 (2) changes.

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(2) The licensee must tell the waste manager, in writing, about the change.

27 Licence not transferable

A licence issued to a licensee may not be transferred to another person.

28 Surrender of licence

(1) A licensee may surrender a licence by giving the waste manager written notice (a ***surrender notice***) of an intention to surrender the licence.

(2) A surrender notice—

(a) must include the following information:

(i) the name of the licensee;

(ii) the unique number for the surrendered licence;

(iii) the day on which the surrender notice is given to the waste manager by the licensee;

(iv) any other information prescribed by regulation; and

(b) may nominate a day, that is on or after the day on which the surrender notice is given to the waste manager, on which the licensee wishes the surrender to take effect.

(3) The surrender of a licence takes effect on whichever of the following happens first—

(a) the day that is—

(i) if the surrender notice does not nominate a day on which the surrender takes effect—28 days after the day the surrender notice is given to the waste manager; or

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(ii) if the surrender notice does nominate a day on which the surrender takes effect—the later of—

(A) the nominated day; and

(B) the day the surrender notice is given to the waste manager; and

(b) if the licensee fails to pay the fee for the licence that is the subject of the surrender notice on the day (the ***payment day***) the fee for the licence next becomes payable—the day after the payment day.

Note The day on which a licence ends is determined under s 29.

29 Term of licence

A licence—

(a) begins on the day after the day the licence fee is paid; and

(b) ends on whichever of the following happens first:

(i) if the licence is surrendered—the day the surrender of the licence takes effect under section 28 (Surrender of licence);

(ii) if the licence is cancelled—the day the licence cancellation takes effect under section 46 (4) (Taking regulatory action);

(iii) if the licensee fails to pay the fee for the licence by the day (the ***payment day***) the fee for the licence next becomes payable—the day after the payment day;

(iv) the day stated in the licence.

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Part 6 Waste transporter registration

30 Requirement to be registered as waste transporter

A person must not operate as a waste transporter unless the person is registered.

Note Section 107 (Unauthorised waste activity) makes it an offence to carry on business as a waste transporter if not registered.

31 Application to be registered

(1) A person may apply to the waste manager to be registered as a waste transporter.

(2) The application must—

(a) be in writing; and

(b) include any information prescribed by regulation.

Note Giving false or misleading information is an offence against the Criminal Code, s 338.

32 Waste manager may request more information

(1) The waste manager may, by written notice, require an applicant applying to be registered to give the waste manager more information—

(a) that the waste manager believes on reasonable grounds to be information needed to decide the application; and

(b) within a stated time; and

(c) at a stated place.

(2) If the applicant does not comply with a requirement in the notice, the waste manager may refuse to consider the application further.

Note A decision under this section is a reviewable decision (see s 120).

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33 Change of information must be provided

(1) This section applies if the information in an application under section 31 changes before the application is decided.

(2) The applicant must give the waste manager written notice of the particulars of the change.

34 Decision about application for registration

(1) The waste manager must, not later than 30 days after the day the waste manager receives an application under section 31 (Application to be registered)—

(a) approve the application; or

(b) refuse the application.

Note 1 Failure to approve an application is taken to be a decision refusing to approve the application (see *ACT Civil and Administrative Tribunal Act 2008*, s 12).

Note 2 A decision under this section is a reviewable decision (see s 120).

(2) However, the waste manager—

(a) may approve the application only if satisfied that the applicant complies, and is likely to continue to comply, with the requirements of this Act; and

(b) may refuse the application if—

(i) the application is materially false or misleading; or

(ii) the applicant has, within 2 years before the application was made, committed an offence under this Act or a corresponding law of a State.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

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(3) If the waste manager refuses the application, the waste manager must as soon as practicable tell the applicant in writing the reason for the refusal.

Note For how documents may be served, see the Legislation Act, pt 19.5.

(4) If the waste manager approves the application the waste manager must—

(a) as soon as practicable after deciding the application, tell the applicant—

(i) that the application is approved; and

(ii) that the applicant must pay a fee for the registration (the ***registration fee***) before the applicant's details can be entered in the register; and

(iii) the day the registration fee is due; and

(b) as soon as practicable after the applicant has paid the registration fee—

(i) enter the applicant's details in the register of waste transporters; and

(ii) allocate a unique registration number (a ***registration number***) for the registered person; and

(iii) tell the registered person, in writing, that the person has been registered and the person's registration number.

34A Registration conditions

A waste transporter registration is subject to—

(a) a condition that the registered waste transporter must comply with this Act; and

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(b) any other condition the waste manager imposes on the registration when the application is approved.

Examples—par (b)

1 limiting the kind and quantity of waste to be transported

2 requiring a kind of waste to be transported in a particular way

Note 1 A decision under this section is a reviewable decision (see s 120).

Note 2 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

35 Waste transporter must display registration number

(1) A registered waste transporter must, within 30 days after being told the waste transporter's registration number, display the number clearly and permanently on any vehicle used by the registered waste transporter for transporting waste.

(2) A regulation may prescribe requirements for the display of a registration number.

36 Entry in register not transferable

The registration of a waste transporter may not be transferred to another person.

37 Register of waste transporters

(1) The waste manager must keep a register of registered waste transporters.

(2) The register must include—

(a) information, if any, prescribed by regulation; and

(b) any other information the waste manager considers relevant.

(3) The waste manager—

(a) may correct an error or omission in the register; and

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(b) must change information included in the register to keep the register accurate and up-to-date.

(4) The waste manager must, without charge—

(a) make the register available to an authorised person; and

(b) make the information in the register prescribed by regulation for this paragraph available to the public in 1 or more of the following ways:

(i) making the information available for inspection during ordinary office hours at an ACT government office;

(ii) making the information accessible on an ACT government website, or by a link on an ACT government website;

(iii) if a person requests a copy of the information—giving the person a copy of the information.

Note The Territory privacy principles apply to the waste manager in relation to personal information held in the register (see *Information Privacy Act 2014*).

38 Waste transporter must update details

(1) This section applies if, to the knowledge of a registered waste transporter, any of the information mentioned in section 37 (2) changes.

(2) The registered waste transporter must tell the waste manager, in writing, about the change.

41 Termination of registration by registered waste transporter

(1) A registered waste transporter may terminate its registration by giving the waste manager written notice of intention to terminate the registration (a ***termination notice***).

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(2) A registration terminated in accordance with subsection (1) takes effect on whichever of the following happens first:

(a) if the termination notice does not state a date on which the registration takes effect—the day that is 4 weeks after the day the notice is given to the waste manager;

(b) if the termination notice states a date on which the registration takes effect—the stated date;

(c) the day on which the next fee for registration becomes payable.

42 Term of registration

A waste transporter's registration—

(a) begins on the day the waste manager enters the waste transporter's details in the register of waste transporters; and

(b) ends on whichever of the following happens first:

(i) if the registration is terminated—the day the termination of the registration takes effect under section 41 (Termination of registration by registered waste transporter);

(ii) if the registration is cancelled—the day registration cancellation takes effect under section 46 (3) (Taking regulatory action);

(iii) if the waste transporter fails to pay the fee for the registration by the day (the ***payment day***) the fee for the registration next becomes payable—the day after the payment day;

(iv) the day stated in the registration.

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Part 7 Regulatory action

43 Definitions—pt 7

In this part:

regulatory action, against a person, means—

(a) if the person is a licensee—any of the following actions:

(i) imposing, or amending, a condition on the licence;

(ii) suspending the licence for either a fixed period or until a particular event happens;

(iii) disqualifying the licensee from applying for another licence for a fixed period or until a particular event happens;

(iv) cancelling the licence; or

(b) if the person is a registered waste transporter—any of the following actions:

(i) imposing or amending a condition on the registration;

(ii) suspending the registration for either a fixed period or until a particular event happens;

(iii) disqualifying the person from applying for registration for a fixed period or until a particular event happens;

(iv) cancelling the registration of the person.

show cause notice—see section 45 (1).

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44 Waste manager may consider regulatory action against person

The waste manager may consider taking regulatory action against a licensee, or a registered waste transporter, only if the waste manager is satisfied on reasonable grounds that—

(a) for action against a licensee—the person engaged in any of the following conduct:

(i) stopped operating a waste facility that is the subject of the licence;

(ii) used false or misleading information to obtain the licence;

(iii) contravened a condition of the licence;

(iv) failed to comply with a provision of this Act; or

(b) for action against a registered waste transporter—the registered waste transporter engaged in any of the following conduct:

(i) used false or misleading information to become a registered waste transporter;

(ii) contravened a condition of being registered;

(iii) failed to comply with a provision of this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

45 Notification of proposed regulatory action

(1) If the waste manager proposes taking regulatory action against a person, the waste manager must give the person a written notice (a ***show cause notice***) stating—

(a) the grounds on which, under section 44, the waste manager considers regulatory action may be taken; and

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(b) details of the proposed regulatory action; and

(c) that the person may, not later than 14 days after the day the person is given the notice, give a written submission to the waste manager about the proposed regulatory action.

(2) The waste manager must consider any submission received by the waste manager in response to the show cause notice when making a decision to take or not take regulatory action against the person.

(3) However, subsection (2) does not apply if the waste manager gives the person an immediate suspension notice under section 48 (Immediate suspension of licence or registration if risk to public safety).

46 Taking regulatory action

(1) This section applies if the waste manager—

(a) has considered a submission mentioned in section 45 (2) received from a person; and

(b) is satisfied on reasonable grounds that it is appropriate, in all the circumstances, to take the regulatory action.

(2) The waste manager may—

(a) if the proposed regulatory action is imposing or amending a condition on a licence, or on a registration—impose or amend the condition; or

(b) if the proposed regulatory action is suspending a licence or a registration—take any of the following action:

(i) the action mentioned in paragraph (a);

(ii) suspend the licence or registration for a period; or

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(c) if the proposed regulatory action is disqualifying a person from applying for a further licence or further registration—take any of the following action:

(i) the action mentioned in paragraph (b);

(ii) disqualify the person from applying for a further licence or further registration for a period; or

(d) if the proposed regulatory action is cancelling a licence or a registration—take any of the following action:

(i) the action mentioned in paragraph (c);

(ii) cancel the licence or registration.

Note A decision under this subsection is a reviewable decision (see s 120).

(3) Before taking regulatory action against a person under this section the waste manager must tell the person, by written notice (a ***notice of regulatory action***)—

(a) the regulatory action that will be taken; and

(b) the day on which the regulatory action takes effect (the ***day of effect***).

(4) Regulatory action takes effect against a person on the day of effect.

(5) In this section:

proposed regulatory action, in relation to a person, means regulatory action mentioned in a show cause notice given to the person under section 45 (1).

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47 Not taking regulatory action

(1) This section applies if, after considering a submission under section 45 (2) received from a person, the waste manager is satisfied on reasonable grounds that regulatory action against the person—

(a) may not be taken; or

(b) may be taken, but that in all the circumstances it is not appropriate to take the action.

(2) The waste manager must give the person written notice telling the person that regulatory action will not be taken against the person in relation to the matters raised in the show cause notice.

48 Immediate suspension of licence or registration if risk to public safety

(1) This section applies if—

(a) the waste manager gives a show cause notice, under section 45 (1), to a person; and

(b) having regard to the grounds stated in the notice, the waste manager believes on reasonable grounds that the person's licence or registration in the register of waste transporters should be suspended immediately because of a risk to public safety.

(2) The waste manager must give the person a written notice (an ***immediate suspension notice***) suspending the person's licence or registration.

(3) A suspension under this section takes effect when the immediate suspension notice is given to the licensee.

(4) A suspension under this section ends—

(a) if regulatory action is taken against the person—when whichever of the following happens first:

(i) regulatory action takes effect;

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(ii) 30 days after the day the immediate suspension notice is given to the person; or

(b) if regulatory action is not taken against the person—when whichever of the following happens first:

(i) when the person is given written notice of the waste manager's decision not to take regulatory action;

(ii) 30 days after the day the immediate suspension notice is given to the person.

Note A decision under this section is a reviewable decision (see s 120).

49 Effect of suspension

(1) A suspended licence or registration does not authorise the carrying on of any activity under the licence or registration during the suspension.

(2) If the waste manager suspends a licence or registration, the person whose licence or registration is suspended is, during the suspension—

(a) taken not to—

(i) hold the licence; or

(ii) be registered; and

(b) disqualified from applying for a licence or registration.

50 Offence—fail to return amended, suspended or cancelled licence

(1) A person commits an offence if—

(a) the person was issued a licence; and

(b) the waste manager decides to amend, suspend or cancel the licence in a decision made under this part; and

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(c) the person fails to return the licence to the waste manager within 7 days after the day the person is given a reviewable decision notice under section 119 (Notice of decisions on reconsideration) about the decision.

Maximum penalty: 10 penalty units.

(2) An offence against this section is a strict liability offence.

51 Action by waste manager in relation to amended or suspended licence

(1) This section applies if—

(a) a licence is amended or suspended under this part; and

(b) the licence is returned to the waste manager.

(2) For an amended licence, the waste manager must—

(a) return the amended licence to the licensee; or

(b) give the licensee a replacement licence that includes the amendment.

(3) For a suspended licence, if the suspension ends before the end of the term of the licence, the waste manager must return the licence to the licensee when the suspension ends.

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Part 8 Financial assurances

52 Waste manager may require financial assurance

(1) The waste manager may require a licensee to provide a financial assurance to the waste manager if satisfied that the assurance is justified to ensure compliance with a licence.

(2) Before requiring a financial assurance under subsection (1), the waste manager must consider—

(a) the nature of the waste activity; and

(b) the compliance record of the licensee; and

(c) the likelihood that remedial action will be necessary if the licensee fails to comply with a condition of the licence.

(3) A financial assurance must be in the form of—

(a) an unconditional bank guarantee; or

(b) a bond; or

(c) an insurance policy; or

(d) another form of security that the waste manager considers appropriate.

(4) The waste manager must not require a financial assurance of an amount greater than the total amount that the waste manager reasonably believes is necessary to remedy the foreseeable harm that could result from the failure to comply with the licence.

(5) A financial assurance must be provided—

(a) for the period stated in the licence; or

(b) if no period is stated, until the end of the licence.

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(6) The waste manager may require the licensee to give a financial assurance under this part, even though the person has given a financial assurance under the *Environment Protection Act 1997*, division 9.4.

53 Show cause why financial assurance should not be provided

(1) If the waste manager proposes to issue a licence subject to a condition requiring a financial assurance, the waste manager must give written notice of the waste manager's intention to impose the condition to the person who applies for the licence (the ***applicant***).

(2) A notice under subsection (1) must—

(a) state the grounds on which the condition is proposed; and

(b) state the amount and form of the financial assurance proposed; and

(c) invite the applicant to show cause why the condition should not be imposed; and

(d) state the date, not earlier than 20 working days after the date of the notice, by which any representations under paragraph (c) must be made.

(3) Within 20 working days after the end of the period allowed under subsection (2) (d) for representations, the waste manager must—

(a) tell the applicant whether or not the condition will be imposed; and

(b) if it will be imposed—state in the notice the date, not earlier than 10 working days after the date of the notice, by which the financial assurance must be provided.

54 Non-provision of financial assurance

If a financial assurance required as a condition of a licence is not provided by the due date, the waste manager must cancel the licence.

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55 Claim on or realisation of financial assurance

(1) This section applies if the waste manager incurs, or will incur, costs and expenses in taking action to remedy harm—

(a) caused, or likely to be caused, by failure to comply with a licence; and

(b) that is within the class of harm in relation to which the financial assurance may be claimed or realised; and

(c) that was not allowed under this Act.

(2) The waste manager may recover the reasonable costs and expenses of taking the action by making a claim on or realising the financial assurance or part of it.

56 Notice before claim on or realisation of financial assurance

(1) Before acting under section 55 (2), the waste manager must give to the licensee in relation to which the financial assurance was provided, a written notice—

(a) stating the harm caused, or likely to be caused, by the failure to comply with the licence; and

(b) giving details of the action taken, or to be taken, to remedy the harm; and

(c) stating the amount of the financial assurance to be claimed or realised; and

(d) inviting the licensee to make a written representation to the waste manager by a stated date, not earlier than 20 working days after the date of the notice, to show why the financial assurance should not be claimed or realised as proposed.

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(2) The waste manager must, within 20 working days after the date stated in the invitation under subsection (1) (d) and taking into account any representations made in response to the invitation—

(a) decide whether or not to make a claim on or realise the financial assurance or part of it; and

(b) give the licensee written notice of the decision.

57 Financial assurance not affect other action

A financial assurance may be called on and used, despite and without affecting—

(a) the liability of a licensee or former licensee to any penalty for an offence for a contravention to which the assurance relates; and

(b) any other action that might be taken or is required to be taken in relation to any contravention or other circumstances to which the assurance relates.

58 Recovery of extra costs

(1) This section applies if the amount recovered by the waste manager by a claim on or by realising a financial assurance (the ***realised assurance***) is less than the reasonable costs and expenses that the waste manager incurred or will incur in taking action to remedy the harm caused, or likely to be caused, by a failure to comply with a condition of a licence (the ***reasonable costs and expenses***).

(2) The waste manager may give the licensee written notice requiring the licensee to pay a stated amount that is the difference between the reasonable costs and expenses and the realised assurance.

(3) The notice must state the date, not earlier than 20 working days after the date of the notice, by which the stated amount is required to be paid.

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(4) Subsection (5) applies if—

(a) the waste manager has given a licensee written notice under subsection (2); and

(b) the licensee has failed to pay the stated amount by the stated date.

(5) Any part of the stated amount that remains unpaid, together with interest on the unpaid amount, is a debt due to the Territory by the holder.

Note A rate of interest may be determined under s 126 for s (5).

59 Money held by Territory as financial assurance

(1) If an amount of money is held by the Territory as a financial assurance or part of a financial assurance in relation to a licence, the following provisions apply:

(a) interest accrues on so much of the original amount as from time to time remains unclaimed by the waste manager under section 55 (Claim on or realisation of financial assurance);

Note A rate of interest may be determined under s 126 for par (a).

(b) for any claim the waste manager may make under section 55, the financial assurance is taken to include any accrued interest other than interest to which the licensee is entitled to be paid under paragraph (c);

(c) during the period the financial assurance is required, on each anniversary of the payment of the original amount, the licensee is entitled to be paid by the Territory so much of the interest that accrued during the year that ended on the day before the anniversary as remains unclaimed by the waste manager under section 55.

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(2) Subsection (3) applies if—

(a) the financial assurance is no longer required by the waste manager; or

(b) the licence has ended.

(3) The Territory must pay to the licensee any part of the original amount and accrued interest that remains unclaimed by the waste manager under section 55.

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Part 9 Codes of practice

60 Code of practice—approval

(1) The Minister may approve a code of practice in relation to a waste activity.

Examples—codes of practice in relation to a waste activity

1 code of practice for disposal of waste from a demolition or construction site

2 code of practice for collection, handling and treatment of putrescibles waste

3 code of practice for storage and placement for collection of domestic waste

(2) An approved code of practice may apply, adopt or incorporate an instrument, as in force from time to time.

Note 1 The text of an applied, adopted or incorporated instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A reference to an instrument includes a reference to a provision of an instrument (see Legislation Act, s 14 (2)).

(3) An approved code of practice is a disallowable instrument.

61 Failure to comply with approved code of practice

(1) A person commits an offence if—

(a) an approved code of practice applies to the person; and

(b) the person engages in conduct; and

(c) the conduct results in a failure to comply with a requirement of the approved code of practice; and

(d) the person is reckless about whether the conduct complies with the approved code of practice.

Maximum penalty: 100 penalty units.

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(2) A person commits an offence if—

(a) an approved code of practice applies to the person; and

(b) the person fails to comply with a requirement of the approved code of practice.

Maximum penalty: 50 penalty units.

(3) An offence against subsection (2) is a strict liability offence.

(4) Subsections (1) and (2) do not apply if—

(a) a written direction has been given to the person under section 62 in relation to the requirement; and

(b) the person has complied with the direction.

Note The defendant has an evidential burden in relation to the matters mentioned in s (4) (see Criminal Code, s 58).

62 Direction to comply with approved code

(1) An authorised person may give a person a written direction to rectify a breach of an approved code of practice if the authorised person believes on reasonable grounds that—

(a) the person has been, is or is likely to be, in breach of a requirement of the code; and

(b) the person has not previously been convicted, or found guilty, of an offence under section 61.

(2) A direction must—

(a) state the requirement of the approved code of practice that has been breached and the conduct constituting the breach; and

(b) state a reasonable time within which the direction must be complied with; and

(c) include a statement that the person may be prosecuted under section 61 if the person fails to comply with the direction.

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(3) The authorised person may withdraw a written direction if, after giving the direction to a person, the authorised person discovers that the person has previously been convicted, or found guilty, of an offence under section 61.

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Part 10 Waste storage and collection

63 Definitions—pt 10

In this part:

store includes keep.

waste does not include—

(a) sewage; or

(b) a thing prescribed by regulation.

waste collection service means a service for collecting waste.

64 Waste collection service

(1) The waste manager may—

(a) establish a waste collection service in the Territory, in accordance with a regulation; and

(b) direct that waste collected by a waste collection service be re-used, recycled or used as landfill.

Note Words in the singular number include the plural (see Legislation Act, s 145 (b)).

(2) A regulation may make provision in relation to the following:

(a) collection or disposal of waste;

(b) eligibility to operate a waste collection service;

(c) operation of a waste collection service, including responsibilities and liabilities of the service;

(d) storing waste for collection by a waste collection service, including requirements relating to the use or maintenance of containers for storing waste;

(e) entry of people on land for a purpose under this part.

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Part 10A Container deposit scheme

Division 10A.1 General

64A Objects—pt 10A

The objects of this part are to—

(a) establish a cost effective container deposit scheme to assist the beverage industry in reducing and dealing with waste generated by beverage product packaging; and

(b) promote the recovery, reuse and recycling of empty beverage containers.

64B Definitions—pt 10A

In this part:

beverage—see section 64C.

collection point—see section 64D.

collection point arrangement—see section 64N (1).

collection point operator, for a collection point, means—

(a) if a collection point arrangement is in force for the collection point—the person who has entered into the collection point arrangement with a network operator for the collection point; or

(b) if a collection point arrangement is not in force for the collection point—the network operator who administers and operates the collection point.

container—see section 64E.

container approval means an approval in force under—

(a) section 64V; or

(b) a corresponding law of a State.

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corresponding law, of a State, means a law of the State that is prescribed by regulation for this part.

material recovery facility operator means a waste management business that—

(a) processes waste collected as part of a waste collection service; and

(b) holds a waste facility licence allowing the processing of waste (otherwise than by thermal treatment) at a waste facility.

network arrangement—see section 64J (1) (b).

network operator means a person with whom the Minister enters into a network operator agreement.

network operator agreement means a scheme administration agreement under section 64H (2) (b).

refund amount—see section 64F.

refund marking—see section 64G.

scheme means the container deposit scheme established under this part.

scheme administration agreement—see section 64H (1).

scheme arrangement means—

(a) a supply arrangement; or

(b) a network arrangement; or

(c) a collection point arrangement.

scheme coordinator means the person with whom the Minister enters into the scheme coordinator agreement.

scheme coordinator agreement means the scheme administration agreement under section 64H (2) (a).

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scheme participant means—

(a) the scheme coordinator; or

(b) a network operator; or

(c) a supplier who has entered into a supply arrangement with the scheme coordinator; or

(d) a collection point operator.

supplier—

(a) means an entity that—

(i) manufactures a container; or

(ii) imports a container from a State or another country; and

(b) carries on a business that is, or includes, the supply of a beverage in the container; but

(c) does not include a person prescribed by regulation not to be a supplier.

supply means provide, by way of sale or otherwise, in the course of carrying on a business.

supply arrangement—see section 64J (1) (a).

64C Meaning of *beverage*—pt 10A

In this part:

beverage means—

(a) a liquid intended for human consumption by drinking; but

(b) does not include a liquid prescribed by regulation not to be a beverage.

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64D Meaning of *collection point*—pt 10A

In this part:

collection point means—

(a) a waste facility used for the collection and handling of containers delivered to the facility for payment of a refund amount; or

(b) sites used for the collection and transport of containers to a waste facility for sorting and processing; or

(c) a reverse vending machine.

64E Meaning of *container*—pt 10A

In this part:

container—

(a) means—

(i) a sealable vessel or receptacle designed to contain a beverage for transport or storage before the beverage is sold or delivered for consumption; or

(ii) anything else prescribed by regulation to be a container; but

(b) does not include anything prescribed by regulation not to be a container.

64F Meaning of *refund amount*—pt 10A

In this part:

refund amount means an amount prescribed by regulation as the refund amount.

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64G Meaning of *refund marking*—pt 10A

In this part:

refund marking means a marking or labelling, about a refund amount for a container, prescribed by regulation.

Division 10A.2 Scheme administration

64H Scheme administration agreements

(1) The Minister may enter into a written agreement (a ***scheme administration agreement***) with a person in relation to the management and administration of the scheme.

(2) A scheme administration agreement may be—

(a) the scheme coordinator agreement; or

(b) a network operator agreement.

(3) The Minister may invite applications for a scheme administration agreement in any way the Minister considers appropriate.

(4) The Minister may enter into a scheme administration agreement only if satisfied that the applicant—

(a) is likely to comply with the requirements of this Act; and

(b) for the scheme coordinator agreement—is a suitable person to be the scheme coordinator; and

(c) for a network operator agreement—is a suitable person to be a network operator.

(5) A regulation may prescribe suitability requirements for a person to be—

(a) the scheme coordinator; or

(b) a network operator.

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(6) Subsection (5) does not limit the matters the Minister may consider in deciding a person's suitability under subsection (4) (b) or (c).

64I Amending and ending scheme administration agreements

(1) A scheme administration agreement may be amended or ended by agreement, in writing, between the Minister and the scheme participant.

(2) The Minister may, by written notice given to the scheme participant, amend or end a scheme administration agreement without the consent of the scheme participant—

(a) if satisfied that the scheme participant has failed to meet a performance target under the agreement; or

(b) in any other circumstance allowed by the agreement.

(3) Without limiting subsection (2), the Minister may, without the consent of the scheme participant, amend a scheme administration agreement to include in the agreement a performance target or other matter required by this part or prescribed by regulation to be included in the agreement.

(4) The scheme participant is not entitled to any compensation as a result of the amendment or end of a scheme administration agreement under subsection (2) (a) or (3).

(5) A provision of a scheme administration agreement is void to the extent to which it purports to exclude, limit or modify the operation of this section.

(6) A regulation may make further provision for amending or ending a scheme administration agreement.

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(7) In this section:

scheme participant, for a scheme administration agreement, means the scheme coordinator or a network operator who is a party to the agreement.

Division 10A.3 Scheme coordinator agreement

64J Content of scheme coordinator agreement

(1) The scheme coordinator agreement must include provisions requiring the scheme coordinator to enter into and give effect to the following:

(a) an arrangement with a supplier (a ***supply arrangement***) requiring the supplier to pay to the scheme coordinator contributions towards the cost of the management, administration and operation of the scheme;

(b) an arrangement with a network operator (a ***network arrangement***) in relation to the establishment, administration and operation of collection points requiring the scheme coordinator to pay to the operator refund amounts and associated administration and handling costs for containers that are collected at the collection points (and for which a collection point operator is required to pay a refund amount under section 64Y).

(2) The scheme coordinator agreement must include any other provision the Minister considers necessary to ensure—

(a) each scheme arrangement required under the agreement sets out a methodology for determining the amounts payable under the arrangement; and

(b) the scheme coordinator does not act unfairly, or unreasonably discriminate, against or in favour of a scheme participant in negotiating, entering into, performing obligations under or enforcing a scheme arrangement.

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(3) The scheme coordinator agreement may provide for any other matter the Minister considers appropriate for the management, administration or operation of the scheme.

(4) A regulation may make provision in relation to—

(a) performance targets (including by reference to any stated network of collection points or area of operation) and any other matter to be included in the scheme coordinator agreement; and

(b) the content of scheme arrangements under the scheme coordinator agreement.

(5) The scheme coordinator agreement may contain provisions relating to the exercise by the scheme coordinator of similar functions under the law of a State relating to container deposit schemes.

(6) Nothing in this section or any other provision of this division (except section 64M (Term of scheme coordinator agreement)) limits the matters for which the scheme coordinator agreement may provide.

64K Approval of network arrangements

(1) The scheme coordinator agreement must require the scheme coordinator, before entering into a network arrangement, to apply to the waste manager for approval of the arrangement.

(2) A regulation may make provision in relation to the following:

(a) an application for approval of a network arrangement;

(b) the approval, amendment or revocation of an approval of a network arrangement.

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64L Payment of refund amounts to material recovery facility operators

(1) The scheme coordinator agreement may require the scheme coordinator to pay a material recovery facility operator a refund amount (a ***processing refund***) for containers collected by a waste collection service and processed by the operator for reuse or recycling.

(2) The waste manager may determine a way (a ***processing refund protocol***) to work out the processing refund payable to the material recovery facility operator.

(3) A processing refund protocol may make provision for the following:

(a) material recovery facility operators or classes of material recovery facility operators who are entitled to claim a processing refund;

(b) the class of containers for which a processing refund is payable;

(c) any other circumstances in which a processing refund is payable;

(d) the way in which a claim for a processing refund must be made by a material recovery facility operator;

(e) the assessment of claims for processing refunds;

(f) reporting and keeping records;

(g) a process for resolving disputes about processing refunds.

(4) A processing refund protocol is a disallowable instrument.

(5) A processing refund is not payable to a material recovery facility operator unless a processing refund protocol is in force in relation to the processing refund.

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(6) A regulation may prohibit—

(a) the landfill disposal of a container in relation to which a claim for a processing refund has been made by a material recovery facility operator; and

(b) a material recovery facility operator making a claim for a processing refund in relation to a container that has been disposed of to landfill.

64M Term of scheme coordinator agreement

(1) The scheme coordinator agreement must not be for longer than 7 years.

(2) The Minister may, with the agreement of the scheme coordinator, extend the agreement for a further period of not longer than 3 years.

(3) The agreement must not be extended more than twice.

Example

The scheme coordinator agreement had an initial term of 7 years. The agreement was then extended for a further period of 3 years. The agreement may be extended for another 3 years so that the total term of the agreement is not longer than 13 years.

Division 10A.4 Network operator agreements

64N Content of network operator agreements

(1) A network operator agreement must include provisions requiring the network operator to enter into and give effect to an arrangement with a person in relation to the administration and operation of collection points (a ***collection point arrangement***) requiring the network operator to pay to the person refund amounts and associated handling costs for containers that are collected at the collection points (and for which a refund amount is payable under division 10A.6).

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(2) A network operator agreement must include any other provisions the Minister considers necessary to ensure—

(a) a collection point arrangement required under the agreement sets out a methodology for determining the amounts payable under the arrangement; and

(b) the network operator does not act unfairly, or unreasonably discriminate, against or in favour of a collection point operator in negotiating, entering into, performing obligations under or enforcing a collection point arrangement.

(3) A network operator agreement may provide for any other matters the Minister considers appropriate for the management, administration or operation of the scheme.

(4) A regulation may make provision in relation to—

(a) performance targets (including by reference to any stated network of collection points or area of operation) and any other matter to be included in a network operator agreement; and

(b) the content of collection point arrangements under a network operator agreement.

(5) Nothing in this section or any other provision of this division limits the matters for which a network operator agreement may provide.

64O Approval of collection point arrangements

(1) A network operator agreement must require the network operator, before entering into a collection point arrangement, to apply to the waste manager for approval of the arrangement.

(2) A regulation may make provision in relation to the following:

(a) an application for approval of a collection point arrangement;

(b) the approval, amendment or revocation of an approval of a collection point arrangement.

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Division 10A.5 Scheme compliance

64P Inconsistent provisions void

(1) A provision of the scheme coordinator agreement is void to the extent to which it is inconsistent with—

(a) a provision of division 10A.6; or

(b) a regulation made under section 64J.

(2) A provision of a network operator agreement is void to the extent to which it is inconsistent with—

(a) a provision of division 10A.6; or

(b) a regulation made under section 64N.

(3) A provision of a scheme arrangement entered into between the scheme coordinator and another scheme participant is void to the extent to which it is inconsistent with—

(a) a provision of the scheme coordinator agreement; or

(b) a provision of a network operator agreement that applies to a network operator with whom the scheme coordinator has entered into a network arrangement; or

(c) a provision of division 10A.6; or

(d) a regulation made under section 64J or section 64N.

(4) A provision of a collection point arrangement entered into between a network operator and a collection point operator is void to the extent to which it is inconsistent with—

(a) a provision of the network operator agreement that applies to the network operator and relates to the arrangement; or

(b) a provision of division 10A.6; or

(c) a regulation made under section 64N.

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64Q Penalties for contravention

(1) A scheme administration agreement may be enforced by a civil penalty or in any other way the agreement provides.

(2) The scheme coordinator or a network operator who contravenes a provision of a scheme administration agreement enforceable by a civil penalty is liable to pay, as a debt due to the Territory, an amount determined in accordance with the agreement as the penalty for the contravention.

(3) This section and a provision of a scheme administration agreement authorised by this section have effect despite any other law.

(4) In this section:

civil penalty means an amount payable to the Territory for the contravention of a stated provision of the agreement.

64R Monitoring and enforcement of compliance

(1) A scheme administration agreement may—

(a) set out the monitoring, reporting and audit requirements to be included in a scheme arrangement; and

(b) provide for the exercise of functions under part 13 (Enforcement) by the waste manager (and authorised people appointed by the director-general) in relation to the agreement; and

(c) require a scheme arrangement to provide for the exercise of functions under part 13 by the waste manager (and authorised people appointed by the director-general) in relation to the scheme arrangement; and

(d) set out any other measures to be taken by the scheme coordinator or network operator to whom the agreement applies to ensure that the parties comply with a scheme arrangement.

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(2) If a scheme administration agreement provides, or a scheme arrangement provides (or is required under a scheme administration agreement to provide), for the exercise of functions under part 13 in relation to the agreement or arrangement, part 13 extends to the exercise of functions by the waste manager (and by authorised people appointed by the director-general) for—

(a) deciding whether there has been compliance with, or a contravention of, the agreement or arrangement (or any condition of an approval granted by the waste manager in relation to the arrangement); and

(b) obtaining information or records about the monitoring or audit of the activities of parties to the agreement or arrangement in relation to the performance of their obligations under the agreement or arrangement.

(3) Part 13 applies as if the responsibilities and functions of the waste manager under this Act included the matters mentioned in subsection (2).

(4) This section does not affect the exercise of functions under part 13 in relation to this Act that are authorised to be exercised without reliance on this section.

64S Performance audit

(1) At the request of the Minister, the waste manager must conduct a performance audit of the activities of the scheme coordinator or any network operator in relation to the performance of obligations under a scheme administration agreement.

(2) At the end of the performance audit, the waste manager must give the Minister a written report.

(3) If the waste manager is of the opinion that the scheme coordinator or a network operator is not complying with the scheme administration agreement, the waste manager may make recommendations to the Minister on appropriate remedial action to be taken.

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(4) A regulation may make provision in relation to performance audits under this section.

64T Register of approved containers and collection points

(1) The scheme coordinator must maintain a register of approved containers and collection points.

(2) The register must contain the following details for each approved container:

(a) a description of the container, including the following:

(i) the kind of container;

(ii) its size, by volume;

(iii) the material it is made of;

(b) the manufacturer;

(c) the barcode;

(d) the date the container approval for the container was given;

(e) if the container approval for the container was given under a corresponding law of a State—the State;

(f) if the container approval for the container has ended—the date the approval ended;

(g) any conditions of the approval.

(3) The register must include the following in relation to each collection point:

(a) the location;

(b) the opening hours;

(c) the name of the collection point operator;

(d) the kind of containers that can be redeemed there.

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(4) The register may contain anything else prescribed by regulation.

(5) The register—

(a) may be kept in any form, including electronically, that the scheme coordinator decides; but

(b) must be accessible by the public and searchable.

64U Reports by scheme coordinator

(1) The scheme coordinator must, within 90 days after the end of each financial year, give the Minister a written report about the following:

(a) the performance of the scheme coordinator in relation to the performance targets under the scheme coordinator agreement;

(b) the amounts charged to suppliers under supply arrangements;

(c) any other matter prescribed by regulation.

(2) The Minister must present the report to the Legislative Assembly within 3 months after the day the Minister receives the report.

Division 10A.6 Supply and collection of containers

Subdivision 10A.6.1 Supply of approved containers

64V Container approvals

(1) A supplier may apply to the waste manager for approval of a container or class of containers for a beverage.

(2) An application must—

(a) be in writing; and

(b) contain or be accompanied by the information prescribed by regulation.

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(3) The waste manager must, within 56 days after receiving the application (the ***required time***)—

(a) approve the application; or

(b) refuse the application.

(4) The waste manager may refuse the application on any of the following grounds:

(a) a supply arrangement is not in force between the supplier and the scheme coordinator;

(b) the labelling for the container or containers of the class to which the application relates does not include a refund marking;

(c) a ground prescribed by regulation.

(5) If the waste manager does not decide the application within the required time, the waste manager is taken to have refused the application.

(6) A container approval may—

(a) be limited to containers supplied by the person to whom the approval is granted; and

(b) include—

(i) conditions prescribed by regulation; and

(ii) any other conditions not inconsistent with a condition under subparagraph (i) that the waste manager imposes on the applicant.

(7) The waste manager may suspend or revoke a container approval on any grounds prescribed by regulation.

(8) A person commits an offence if—

(a) the person holds a container approval; and

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(b) the person fails to comply with a condition of the approval.

Maximum penalty: 50 penalty units.

(9) Strict liability applies to subsection (8) (a) and (b).

64W Requirement for supply arrangement with scheme coordinator and container approval

(1) A supplier commits an offence if—

(a) the supplier supplies or offers to supply a beverage in a container to another person; and

(b) the following are not in force:

(i) a supply arrangement between the supplier and the scheme coordinator for the class of container to which the container belongs;

(ii) a container approval granted to the supplier for the class of containers to which the container belongs.

Maximum penalty: 1 000 penalty units.

(2) Strict liability applies to subsection (1) (b).

64X Requirement for refund markings on containers

(1) A supplier commits an offence if—

(a) the supplier supplies or offers to supply a beverage in a container to a person; and

(b) the container does not bear a refund marking.

Maximum penalty: 1 000 penalty units.

(2) Strict liability applies to subsection (1) (b).

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Subdivision 10A.6.2 Collection of containers

64Y Refund amounts payable by collection point operators

(1) A collection point operator commits an offence if—

(a) a person presents an empty container to a collection point operated by the collection point operator; and

(b) the container bears a refund marking; and

(c) the person claims a refund amount for the container from the collection point operator; and

(d) the collection point operator does not—

(i) accept the container from the person; or

(ii) pay the person the refund amount for the container at the time required under subsection (3).

Maximum penalty: 50 penalty units.

(2) Subsection (1) does not apply—

(a) if the collection point operator reasonably believes that—

(i) the container was not acquired in the ACT or in a State in which a corresponding law is in force; or

(ii) the container was acquired before the commencement of this part; or

(iii) a refund amount has previously been paid for the container at any collection point; or

(iv) the container has previously been processed by a material recovery facility operator for reuse or recycling and the scheme coordinator has made, or is required to make, a payment in relation to the container to that operator under the scheme coordinator agreement; or

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(b) if the person has refused to comply with a requirement of the collection point operator under section 64Z; or

(c) in any other circumstance prescribed by regulation.

Note The defendant has an evidential burden in relation to the matters mentioned in s (2) (see Criminal Code, s 58).

(3) A refund amount that is payable under this section must be paid at the time the collection point operator accepts the container, or any later time prescribed by regulation.

64Z Refund declarations and proof of identity

(1) A collection point operator may require a person who presents a container to a collection point to claim a refund amount to give the operator a refund declaration.

(2) A collection point operator may refuse to pay a person a refund amount if the operator is not satisfied about the person's identity.

(3) A collection point operator must not pay a person a refund amount in either of the following circumstances unless the person has given the operator a refund declaration and proof of the person's identity:

(a) if the number of containers for which the person is claiming a refund amount at the collection point is more than the number prescribed by regulation;

(b) if the operator knows, or believes on reasonable grounds, that the total number of containers presented to the collection point by the person, and anyone else acting on the person's behalf, within the period prescribed by regulation for claiming a refund is more than the number prescribed by regulation.

(4) A collection point operator must keep for at least 3 years any records prescribed by regulation in relation to—

(a) refunds paid by the operator; and

(b) proof of identity given to the operator.

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(5) A collection point operator commits an offence if the collection point operator fails to comply with a requirement under subsection (4).

Maximum penalty: 40 penalty units.

(6) An offence against subsection (5) is a strict liability offence.

(7) In this section:

refund declaration means a declaration containing the information prescribed by regulation.

64ZA Offence—claiming refund for containers not subject to scheme

(1) A person commits an offence if—

(a) the person presents a container to a collection point to claim a refund; and

(b) the person knows, or ought reasonably to know that—

(i) the container was not acquired in the Territory or in a State in which a corresponding law is in force; or

(ii) the container was acquired before the commencement of this part; or

(iii) a refund amount has previously been paid for the container at a collection point; or

(iv) the container has previously been processed by a material recovery facility operator for reuse or recycling and the scheme coordinator has made, or is required to make, a payment in relation to the container to the operator under the scheme coordinator agreement.

Maximum penalty: 10 penalty units.

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(2) A scheme participant commits an offence if—

(a) the scheme participant gives an invoice or other statement to a scheme administrator; and

(b) the invoice or other statement claims a refund amount payable by the scheme administrator to the scheme participant for a container under a scheme arrangement; and

(c) the scheme participant knows, or ought reasonably to know that—

(i) the container was not acquired in the ACT or in a State in which a corresponding law is in force; or

(ii) the container was acquired before the commencement of this part; or

(iii) a refund amount has been paid for the container more than once at any 1 or more collection points; or

(iv) the container has previously been processed by a material recovery facility operator for reuse or recycling and the scheme coordinator has made, or is required to make, a payment in relation to the container to the operator under the scheme coordinator agreement.

Maximum penalty: 1 000 penalty units.

(3) In this section:

scheme administrator means the scheme coordinator or a network operator.

scheme participant means a network operator or collection point operator.

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Division 10A.7 Miscellaneous

64ZB Authorisations for Competition and Consumer Act 2010 (Cwlth)

For the *Competition and Consumer Act 2010* (Cwlth), this part authorises—

(a) everything done under this part; and

(b) all scheme administration agreements and scheme arrangements made under this part; and

(c) everything done under a scheme administration agreement or a scheme arrangement authorised by this part.

Note 1 For the Competition Code of the Australian Capital Territory, see the *Competition Policy Reform Act 1996*, s 5 and s 10.

Note 2 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

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Part 11 Reporting

65 Waste activity report

(1) A licensee or registered waste transporter must give the waste manager a report (a ***waste activity report***), in writing, about waste activities carried out in a reporting period.

(2) The report must—

(a) contain information prescribed by regulation; and

(b) be given to the waste manager not later than 1 month after the end of the reporting period.

(3) In this section:

reporting period means the period prescribed by regulation.

66 Offence—fail to report to waste manager

(1) A person commits an offence if the person—

(a) is required to give the waste manager a report under section 65; and

(b) fails to give the report to the waste manager in accordance with section 65 (2).

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

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Part 12 Exemptions

67 Declaration exempting person or activity

(1) The waste manager may, on application or on the manager's own initiative, declare the following exempt from a provision of this Act:

(a) a person or class of people;

(b) waste activity of a particular kind or generally.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

(2) A declaration under subsection (1) may be made only—

(a) in an emergency; or

Examples—emergency

- fire
- flood
- fuel shortage

(b) if the waste manager is satisfied that—

(i) it is not practicable to comply with the provision; and

(ii) noncompliance with the provision will not have any significant adverse effect on public health, property or the environment.

Note A decision under this section is a reviewable decision (see s 120).

(3) An exemption in a declaration may include conditions.

(4) A declaration—

(a) made in circumstances mentioned in subsection (2) (a)—is a notifiable instrument; and

(b) made in circumstances mentioned in subsection (2) (b)—is a disallowable instrument.

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(5) A declaration made in an emergency may commence when it is made or on a later date stated in the declaration.

68 Renewal of declaration

(1) The waste manager may renew a declaration.

(2) An exemption, under a declaration, given to a person within 5 years after the expiry of an earlier exemption, and in the same terms as the earlier exemption, is taken to be a renewal of the earlier exemption.

69 Term of declaration

A declaration, including renewal of the declaration, may not be in force for a total period of more than 5 years.

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Part 13 Enforcement

Division 13.1 Directions

70 Direction to stop contravening Act etc

(1) This section applies if the waste manager believes on reasonable grounds that a person is—

(a) contravening this Act; or

(b) contravening a condition of a licence; or

(c) contravening a condition of registration as a waste transporter; or

(d) failing to comply with a requirement of a scheme administration agreement.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

(2) The waste manager may direct the person to comply with this Act, or the condition or requirement by doing, or not doing, a thing (a ***compliance direction***).

Note A decision under this section is a reviewable decision (see s 120).

(3) A compliance direction may require the person to carry out remedial action if the waste manager considers the action is necessary to restore land that is damaged because of the person's contravention.

(4) A compliance direction must be in writing and state—

(a) the thing required to be done, or not done; and

(b) the period for compliance with the direction.

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71 Directions—stockpiling materials and delivering waste

(1) The waste manager may give a person directions in relation to the following:

(a) stockpiling waste;

(b) delivering waste to a named waste facility;

(c) an activity prescribed by regulation.

(2) The waste manager may give a person a direction under subsection (1) (b) even though the direction is contrary to the person's obligation in relation to the delivery of the waste under a licence.

Note A decision under this section is a reviewable decision (see s 120).

(3) A direction must be in writing and state—

(a) the thing required to be done, or not done; and

(b) the period for compliance with the direction.

72 Offence—fail to comply with direction

(1) A person commits an offence if—

(a) the waste manager gives the person a direction under section 70 or section 71; and

(b) the person fails to comply with the direction.

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

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Division 13.2 Authorised people

Subdivision 13.2.1 General

73 Definitions—div 13.2

In this division:

connected—a thing is ***connected*** with an offence if—

(a) the offence has been committed in relation to it; or

(b) it will provide evidence of the commission of the offence; or

(c) it was used, is being used, or is intended to be used, to commit the offence.

occupier, of premises, includes—

(a) a person believed on reasonable grounds to be an occupier of the premises; and

(b) a person apparently in charge of the premises.

offence includes an offence that there are reasonable grounds for believing has been, is being, or will be, committed.

premises includes land.

warrant means a warrant issued under subdivision 13.2.3 (Search warrants).

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74 Appointment

The director-general may appoint a public servant as an authorised person for this Act.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

75 Identity cards

(1) The director-general must give each authorised person an identity card that states the person's name and appointment as an authorised person, and shows—

(a) a recent photograph of the person; and

(b) the date of issue of the card; and

(c) the date of expiry of the card; and

(d) anything else prescribed by regulation.

(2) A person commits an offence if the person—

(a) stops being an authorised person; and

(b) does not return the person's identity card to the director-general as soon as practicable (but within 7 days) after the day the person stops being an authorised person.

Maximum penalty: 1 penalty unit.

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(3) Subsection (2) does not apply to a person if the person's identity card is—

(a) lost or stolen; or

(b) destroyed by someone else.

(4) An offence against this section is a strict liability offence.

76 Authorised person must show identity card on exercising power

(1) If an authorised person exercises a power under this Act that affects an individual, the authorised person must first show the authorised person's identity card to the individual.

(2) If an authorised person exercises a power under this Act that affects a person, other than an individual, the authorised person must first show the authorised person's identity card to an individual the authorised person believes on reasonable grounds is an employee, officer or agent of the person.

Examples—person other than an individual

- corporation
- partnership

Subdivision 13.2.2 Powers

77 Power to enter premises

(1) For this Act, an authorised person may—

(a) at any reasonable time, enter premises that the public is entitled to use or that are open to the public (whether or not on payment of money); or

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(b) at any time, enter premises with the occupier's consent; or

(c) at any time, enter premises if the authorised person believes on reasonable grounds that—

(i) there is a risk to the environment or to public health and safety; and

(ii) the risk is so serious and urgent that immediate entry to the premises without the authority of a search warrant is necessary; or

(d) enter premises in accordance with a search warrant.

(2) However—

(a) subsection (1) (a) does not authorise entry into a part of the premises that is being used only for residential purposes; and

(b) subsection (1) (c) does not authorise entry into premises that are used for residential purposes, unless the premises are also the place from which a waste management business is conducted.

(3) An authorised person may, without the consent of the occupier of premises, enter land around the premises to ask for consent to enter the premises.

(4) To remove any doubt, an authorised person may enter premises under subsection (1) without payment of an entry fee or other charge.

(5) An authorised person may—

(a) for subsection (1) (a), (b) or (c)—enter the premises with necessary assistance; and

(b) for subsection (1) (d)—enter the premises with necessary assistance and force.

Note A search warrant to enter premises, issued under this Act, permits an authorised person to enter premises with any necessary assistance and force.

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(6) In this section:

necessary assistance, for an authorised person entering premises, includes the attendance of 1 or more people who, in the opinion of the authorised person, have knowledge or skills that could assist in carrying out the authorised person's functions.

78 Production of identity card

An authorised person and any other person other than a police officer who is accompanying the authorised person may not remain at premises entered under this part if the authorised person does not produce the authorised person's identity card when asked by the occupier.

79 Consent to entry

(1) When seeking the consent of an occupier to enter premises under section 77 (1) (b) (Power to enter premises), an authorised person must—

(a) produce the authorised person's identity card; and

(b) tell the occupier—

(i) the purpose of the entry; and

(ii) the reason for, and identity of, any other person accompanying the authorised person; and

(iii) that anything found and seized under this part may be used in evidence in court; and

(iv) that consent may be refused.

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(2) If the occupier consents, the authorised person must ask the occupier to sign a written acknowledgment (an ***acknowledgment of consent***)—

(a) that the occupier was told—

(i) the purpose of the entry; and

(ii) the reason for, and identity of, any other person accompanying the authorised person; and

(iii) that anything found and seized under this part may be used in evidence in court; and

(iv) that consent may be refused; and

(b) that the occupier consented to the entry; and

(c) stating the time and date when consent was given.

(3) If the occupier signs an acknowledgment of consent, the authorised person must immediately give a copy to the occupier.

(4) A court must find that the occupier did not consent to entry to the premises by the authorised person under this part if—

(a) the question whether the occupier consented to the entry arises in a proceeding in the court; and

(b) an acknowledgment of consent for the entry is not produced in evidence; and

(c) it is not proved that the occupier consented to the entry.

80 General powers on entry to premises

(1) An authorised person who enters premises under this part may, for this Act, do 1 or more of the following in relation to the premises or anything at the premises:

(a) inspect or examine;

(b) take measurements or conduct tests;

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(c) take samples;

(d) make sketches, drawings or any other kind of record (including photographs, films, audio, video or other recordings);

(e) require the occupier, or anyone at the premises, to give the authorised person reasonable help to exercise a power under this part.

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

(2) A person must take all reasonable steps to comply with a requirement made of the person under subsection (1) (e).

Maximum penalty: 50 penalty units.

81 Power to seize things

(1) An authorised person who enters premises under this part with the occupier's consent may seize anything at the premises if seizure of the thing is consistent with the purpose of the entry told to the occupier when seeking the occupier's consent.

(2) An authorised person who enters premises under a warrant under this part may seize anything at the premises that the authorised person is authorised to seize under the warrant.

(3) An authorised person who enters premises under this part (whether with the occupier's consent, under a warrant or otherwise) may seize anything at the premises if satisfied on reasonable grounds that—

(a) the thing is connected with an offence against this Act; and

(b) the seizure is necessary to prevent the thing from being—

(i) concealed, lost or destroyed; or

(ii) used to commit, continue or repeat the offence.

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(4) Having seized a thing, an authorised person may—

(a) remove the thing from the premises where it was seized (the ***place of seizure***) to another place; or

(b) leave the thing at the place of seizure but restrict access to it.

(5) A person commits an offence if—

(a) the person interferes with a seized thing, or anything containing a seized thing, to which access has been restricted under subsection (4); and

(b) the person does not have an authorised person's approval to interfere with the thing.

Maximum penalty: 50 penalty units.

(6) An offence against subsection (5) is a strict liability offence.

82 Direction to give name and address

(1) This section applies if an authorised person believes on reasonable grounds that a person—

(a) has committed, is committing or is about to commit an offence against this Act; or

(b) may be able to assist in the investigation of an offence against this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

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(2) The authorised person may direct the person to give the authorised person, immediately, any of the following personal details (a ***name and address direction***):

(a) the person's full name;

(b) the person's home address.

Note The authorised person must first show the person the authorised person's identity card (see s 76).

(3) If the authorised person believes on reasonable grounds that a personal detail given by a person in response to a name and address direction is false or misleading, the authorised person may direct the person to produce evidence immediately of the correctness of the detail (an ***evidence direction***).

(4) If an authorised person gives a direction to a person, the authorised person must tell the person that it is an offence if the person fails to comply with the direction.

(5) If an authorised person gives a direction to a person, the authorised person must give the direction in a language, or in a way of communicating, that the authorised person believes on reasonable grounds the person is likely to understand.

83 Offence—fail to comply with direction to give name and address

(1) A person commits an offence if the person—

(a) is the subject of—

(i) a name and address direction; or

(ii) an evidence direction; and

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(b) fails to comply with the direction.

Maximum penalty: 5 penalty units.

Note It is an offence to make a false or misleading statement or give false or misleading information (see Criminal Code, pt 3.4).

(2) An offence against this section is a strict liability offence.

(3) This section does not apply to a person if the authorised person, before giving the direction, did not—

(a) produce the authorised person's identity card for inspection by the person; or

(b) warn the person that failure to comply with the direction is an offence.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) (see Criminal Code, s 58).

(4) In this section:

direction means a name and address direction or an evidence direction.

evidence direction—see subsection 82 (3).

name and address direction—see subsection 82 (2).

Subdivision 13.2.3 Search warrants

84 Warrants generally

(1) An authorised person may apply to a magistrate for a warrant to enter premises.

(2) The application must—

(a) be sworn; and

(b) state the grounds on which the warrant is sought.

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(3) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

(4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—

(a) there is a particular thing or activity connected with an offence against this Act; and

(b) the thing or activity—

(i) is, or is being engaged in, at the premises; or

(ii) may be, or may be engaged in, at the premises within the next 14 days.

(5) The warrant must state—

(a) that an authorised person may, with any necessary assistance and force, enter the premises and exercise the authorised person's powers under this part; and

(b) the offence for which the warrant is issued; and

(c) the things that may be seized under the warrant; and

(d) the hours when the premises may be entered; and

(e) the date, within 14 days after the day of the warrant's issue, when the warrant ends.

85 Warrants—application other than in person

(1) An authorised person may apply for a warrant by phone, fax, radio, email, letter or other form of communication if the authorised person considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances.

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(2) Before applying for the warrant, the authorised person must prepare an application stating the grounds on which the warrant is sought.

(3) The authorised person may apply for the warrant before the application is sworn.

(4) After issuing the warrant, the magistrate must immediately provide a written copy to the authorised person if it is practicable to do so.

(5) If it is not practicable to provide a written copy of the warrant to the authorised person—

(a) the magistrate must tell the authorised person—

(i) what the terms of the warrant are; and

(ii) the date and time the warrant was issued; and

(b) the authorised person must complete a form of warrant (the ***warrant form***) and write on it—

(i) the magistrate's name; and

(ii) the date and time the magistrate issued the warrant; and

(iii) the warrant's terms.

(6) The written copy of the warrant, or the warrant form properly completed by the authorised person, authorises the entry and the exercise of the authorised person's powers under this part.

(7) The authorised person must, at the first reasonable opportunity, send to the magistrate—

(a) the sworn application; and

(b) if the authorised person completed a warrant form—the completed warrant form.

(8) On receiving the documents mentioned in subsection (7), the magistrate must attach them to the warrant.

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(9) A court must find that a power exercised by an authorised person was not authorised by a warrant under this section if—

(a) the question arises in a proceeding before the court whether the exercise of power was authorised by a warrant; and

(b) the warrant is not produced in evidence; and

(c) it is not proved that the exercise of power was authorised by a warrant under this section.

86 Search warrants—announcement before entry

(1) An authorised person must, before anyone enters premises under a search warrant—

(a) announce that the authorised person is authorised to enter the premises; and

(b) give anyone at the premises an opportunity to allow entry to the premises; and

(c) if the occupier of the premises, or someone else who apparently represents the occupier, is present at the premises—identify themself to the person.

(2) The authorised person is not required to comply with subsection (1) if the authorised person believes on reasonable grounds that immediate entry to the premises is required to ensure—

(a) the safety of anyone (including the authorised person or any person assisting); or

(b) that the effective execution of the warrant is not frustrated.

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87 Details of search warrant to be given to occupier etc

If the occupier of the premises, or someone else who apparently represents the occupier, is present at the premises while a search warrant is being executed, the authorised person or a person assisting must make available to the person—

(a) a copy of the warrant; and

(b) a document setting out the rights and obligations of the person.

88 Occupier entitled to be present during search etc

(1) If the occupier of the premises, or someone else who apparently represents the occupier, is present at the premises while a search warrant is being executed, the person is entitled to observe the search being conducted.

(2) However, the person is not entitled to observe the search if—

(a) to do so would impede the search; or

(b) the person is under arrest, and allowing the person to observe the search being conducted would interfere with the objectives of the search.

(3) This section does not prevent 2 or more areas of the premises being searched at the same time.

Subdivision 13.2.4 Return and forfeiture of things seized

89 Receipt for things seized

(1) As soon as practicable after a thing is seized by an authorised person under this part, the authorised person must give a receipt for it to the person from whom it was seized.

(2) If, for any reason, it is not practicable to comply with subsection (1), the authorised person must leave the receipt, secured conspicuously at the place of seizure under section 81 (Power to seize things).

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(3) A receipt under this section must include the following:

(a) a description of the thing seized;

(b) an explanation of why the thing was seized;

(c) the authorised person's name, and how to contact the authorised person;

(d) if the thing is moved from the premises where it is seized—where the thing is to be taken.

90 Moving things to another place for examination or processing under search warrant

(1) A thing found at premises entered under a search warrant may be moved to another place for examination or processing to decide whether it may be seized under the warrant if—

(a) both of the following apply:

(i) there are reasonable grounds for believing that the thing is or contains something to which the warrant relates;

(ii) it is significantly more practicable to do so having regard to the timeliness and cost of examining or processing the thing at another place and the availability of expert assistance; or

(b) the occupier of the premises agrees in writing.

(2) The thing may be moved to another place for examination or processing for not longer than 72 hours.

(3) An authorised person may apply to a magistrate for an extension of time if the authorised person believes on reasonable grounds that the thing cannot be examined or processed within 72 hours.

(4) The authorised person must give notice of the application to the occupier of the premises, and the occupier is entitled to be heard on the application.

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(5) If a thing is moved to another place under this section, the authorised person must, if practicable—

(a) tell the occupier of the premises the address of the place where, and time when, the examination or processing will be carried out; and

(b) allow the occupier or the occupier's representative to be present during the examination or processing.

(6) The provisions of this part relating to the issue of search warrants apply, with any necessary changes, to the giving of an extension under this section.

91 Access to things seized

A person who would, apart from the seizure, be entitled to inspect a thing seized under this part may—

(a) inspect the thing; and

(b) photograph the thing; and

(c) if the thing is a document—take extracts from, or make copies of, the thing.

92 Return of things seized

(1) A thing seized under this part must be returned to its owner, or reasonable compensation must be paid to the owner by the Territory for the loss of the thing, if—

(a) an infringement notice for an offence connected with the thing is not served on the owner within 1 year after the day of the seizure and either—

(i) a prosecution for an offence connected with the thing is not begun within the 1-year period; or

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(ii) a prosecution for an offence connected with the thing is begun within the 1-year period but the court does not find the offence proved; or

(b) an infringement notice for an offence connected with the thing is served on the owner within 1 year after the day of the seizure, the infringement notice is withdrawn and—

(i) a prosecution for an offence connected with the thing is not begun within 1 year after the day of the seizure; or

(ii) a prosecution for an offence connected with the thing is begun within 1 year after the day of the seizure but the court does not find the offence proved; or

(c) an infringement notice for an offence connected with the thing is served on the owner within 1 year after the day of the seizure, liability for the offence is disputed in accordance with the *Magistrates Court Act 1930*, section 132 (Disputing liability for infringement notice offence) and—

(i) an information is not laid in the Magistrates Court against the person for the offence within 60 days after the day notice is given under that section; or

(ii) the Magistrates Court does not find the offence proved.

(2) If anything seized under this part is not required to be returned or reasonable compensation is not required to be paid under subsection (1), the thing—

(a) is forfeited to the Territory; and

(b) may be sold, destroyed or otherwise disposed of as the waste manager directs.

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Subdivision 13.2.5 Miscellaneous

93 Damage etc to be minimised

(1) In the exercise, or purported exercise, of a function under this part, an authorised person must take all reasonable steps to ensure that the authorised person, and any person assisting the authorised person, causes as little inconvenience, detriment and damage as is practicable.

(2) If an authorised person, or a person assisting an authorised person, damages anything in the exercise or purported exercise of a function under this part, the authorised person must give written notice of the particulars of the damage to the person whom the authorised person believes on reasonable grounds is the owner of the thing.

(3) If the damage happens at premises entered under this part in the absence of the occupier, the notice may be given by leaving it secured in a conspicuous place at the premises.

94 Compensation for exercise of enforcement powers

(1) A person may claim compensation from the Territory if the person suffers loss or expense because of the exercise, or purported exercise, of a function under this part by—

(a) an authorised person; or

(b) a person assisting an authorised person.

(2) Compensation may be claimed and ordered in a proceeding for—

(a) compensation brought in a court of competent jurisdiction; or

(b) an offence against this Act brought against the person making the claim for compensation.

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(3) A court may order the payment of reasonable compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.

(4) A regulation may prescribe matters that may, must or must not be taken into account by the court in considering whether it is just to make the order.

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Part 14 Enforceable undertakings

95 Definitions—pt 14

In this part:

enforceable undertaking means a proposed undertaking that has been accepted by the waste manager under section 97.

proposed undertaking—see section 96 (3).

undertakings register—see section 98.

96 Making of proposed undertakings

(1) This section applies if the waste manager believes on reasonable grounds that a person has committed an offence against part 15 (Offences) (the ***alleged offence***).

(2) The waste manager may give the person written notice stating—

(a) that the waste manager believes the person has committed the alleged offence; and

(b) the grounds for the waste manager's belief; and

(c) the facts of the alleged offence; and

(d) the following:

(i) that the person may enter an enforceable undertaking with the waste manager for the alleged offence under this part;

(ii) information about the effect of—

(A) entering an enforceable undertaking, including the consequences of contravening the undertaking; and

(B) not entering an enforceable undertaking;

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(iii) how the person may enter and withdraw from an enforceable undertaking;

(iv) the assurances about the person's future conduct that the waste manager would be prepared to accept for an enforceable undertaking.

(3) If the person wishes to enter into an enforceable undertaking with the waste manager, the person must give the waste manager a written proposal (a ***proposed undertaking***) about the person's future conduct as a result of the alleged offence.

(4) The proposed undertaking must—

(a) acknowledge that the waste manager believes that the person has committed an alleged offence; and

(b) contain a statement by the person—

(i) that the person understands that the proposed undertaking becomes an enforceable undertaking when accepted by the waste manager; and

(ii) setting out assurances about the person's future conduct for the enforceable undertaking; and

(iii) agreeing to be bound by the enforceable undertaking; and

(c) include any other information prescribed by regulation.

Examples—assurances about person's future conduct

1 to stop certain conduct

2 to take particular action to compensate people adversely affected by an alleged offence committed against a stated provision of this Act

3 to take particular action to rectify a state of affairs that arose as a direct or indirect result of the alleged offence

4 to take particular action (including implementing particular systems) to prevent future offences against this Act

5 to implement publicity or education programs

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97 Acceptance of proposed undertaking

(1) If the waste manager accepts a proposed undertaking the waste manager must by written notice tell the person that gave the undertaking that the undertaking has been accepted and is an enforceable undertaking for this Act.

(2) On acceptance of the proposed undertaking, the undertaking becomes enforceable (an ***enforceable undertaking***).

98 Register of enforceable undertakings

(1) The waste manager must keep a register of enforceable undertakings (the ***undertakings register***).

(2) The undertakings register must include the following details for each undertaking:

(a) the name of the person that gave the undertaking;

(b) particulars of the undertaking given;

(c) the date the undertaking takes effect;

(d) anything else prescribed by regulation.

(3) The undertakings register may include any other information the waste manager considers relevant.

(4) The undertakings register may be kept in any form, including electronically, that the waste manager decides.

(5) The waste manager may—

(a) correct a mistake, error or omission in the undertakings register; and

(b) change a detail included in the register to keep the register up-to-date.

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99 Withdrawal from or amendment of enforceable undertaking

(1) The person that gave an enforceable undertaking may withdraw from or amend the undertaking only with the waste manager's written agreement.

(2) However, the undertaking may not be amended to provide for a different alleged offence.

100 Ending enforceable undertaking

(1) The waste manager may end an enforceable undertaking by written notice to the person that gave the undertaking if satisfied on reasonable grounds that the undertaking is no longer necessary or desirable to ensure that the person complies with this Act.

(2) The waste manager may act under subsection (1) on the waste manager's own initiative or on the application of the person that gave the undertaking.

(3) The undertaking ends when the person that gave the undertaking receives the waste manager's notice.

101 Undertaking not admission of fault etc

(1) This section applies if a person gives the waste manager a proposed undertaking in relation to an alleged offence, whether or not the undertaking is accepted by the waste manager.

(2) Giving the proposed undertaking is neither—

(a) an express or implied admission of fault or liability by the person in relation to the alleged offence; nor

(b) relevant to deciding fault or liability in relation to the alleged offence.

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(3) Neither a proposed undertaking nor an enforceable undertaking is admissible in evidence in a court or tribunal in any proceeding for the alleged offence.

102 Contravention of enforceable undertakings

(1) If the waste manager believes on reasonable grounds that an enforceable undertaking has been contravened, the waste manager may apply to the Magistrates Court for an order under subsection (2).

(2) If the Magistrates Court is satisfied that the enforceable undertaking has been contravened, the court may make 1 or more of the following orders:

(a) an order requiring the person who gave the undertaking to ensure that the undertaking is not contravened;

(b) an order requiring the person who gave the undertaking to pay to the Territory the amount assessed by the court as the value of the benefits anyone derived, directly or indirectly, from the contravention of the undertaking;

(c) an order that the court considers appropriate requiring the person who gave the undertaking to compensate someone who has suffered loss or damage because of the contravention of the undertaking;

(d) any other order that the court considers appropriate.

103 Effect of enforceable undertaking on other proceedings

A proceeding may not be brought against a person for an alleged offence mentioned in an enforceable undertaking if—

(a) the enforceable undertaking is in force in relation to the alleged offence; and

(b) the person has not failed to comply with the enforceable undertaking in relation to the alleged offence.

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Part 15 Offences

Division 15.1 Liability of managers etc

104 Criminal liability of partners—pt 15

(1) This section applies if a partnership through a partner, servant or agent—

(a) engages in conduct; and

(b) the conduct is an offence against this part.

(2) Each partner (a ***liable partner***) in the partnership is taken to commit the offence.

(3) It is a defence to a prosecution for an offence against this part if a liable partner proves that—

(a) the partner did not know about the conduct that constituted the offence; and

(b) either—

(i) the partner took reasonable precautions and exercised appropriate diligence to ensure the partnership did not engage in the conduct; or

(ii) the partner was not in a position to influence the partnership in relation to the conduct.

Note The defendant has a legal burden in relation to the matters mentioned in s (3) (see Criminal Code, s 59).

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105 Criminal liability of executive officers—pt 15

(1) An executive officer of a corporation is taken to commit an offence if—

(a) the corporation commits a relevant offence; and

(b) the officer was reckless about whether the relevant offence would be committed; and

(c) the officer was in a position to influence the conduct of the corporation in relation to the commission of the relevant offence; and

(d) the officer failed to take reasonable steps to prevent the commission of the relevant offence.

Maximum penalty: The maximum penalty that may be imposed for the commission of the relevant offence by an individual.

(2) Subsection (1) does not apply if the corporation has a defence to a prosecution for the relevant offence.

Note The defendant has an evidential burden in relation to the matters mentioned in s (2) (see Criminal Code, s 58).

(3) In deciding whether the executive officer took (or failed to take) reasonable steps to prevent the commission of the relevant offence, a court must consider the following:

(a) any action the officer took directed towards ensuring the following (to the extent that the action is relevant to the act or omission):

(i) that the corporation arranges regular professional assessments of the corporation's compliance with the provision to which the relevant offence relates;

(ii) that the corporation implements any appropriate recommendation arising from such an assessment;

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(iii) that the corporation's employees, agents and contractors have a reasonable knowledge and understanding of the requirement to comply with the provision to which the relevant offence relates;

(b) any action the officer took when the officer became aware that the relevant offence was, or might be, about to be committed.

(4) Subsection (3) does not limit the matters the court may consider.

(5) This section applies whether or not the corporation is prosecuted for, or convicted of, the relevant offence.

(6) In this section:

executive officer, of a corporation, means a person, by whatever name called and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the corporation's management.

relevant offence means an offence against any of the following:

(a) section 66 (Offence—fail to report to waste manager);

(b) section 72 (Offence—fail to comply with direction);

(c) section 107 (Unauthorised waste activity);

(d) section 108 (1) (Fail to comply with condition of licence or registration);

(e) section 109 (Unlawful transporting or depositing of waste);

(f) section 110 (Use of place as waste facility without lawful authority);

(g) section 111 (Consent required for certain waste activities);

(h) section 112 (False or misleading information about waste);

(i) section 113 (Taking prescribed waste to landfill or other facility).

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Division 15.2 Specific offences

106 Meaning of *waste site*—div 15.2

In this division:

waste site means a place used for the storage, sorting, treatment, processing, or disposal of waste.

107 Unauthorised waste activity

(1) A person commits an offence if—

(a) the person engages in conduct; and

(b) the conduct is a waste activity; and

(c) the person—

(i) if the waste activity includes operating a waste facility—does not hold a licence in relation to the facility; or

(ii) if the waste activity includes collection or transportation of waste—is not registered as a waste transporter.

Maximum penalty: 200 penalty units.

(2) A person who engages in consecutive conduct that contravenes subsection (1) commits a separate offence for each day or part of each day of consecutive conduct that happens immediately after the first day the person engaged in the conduct.

Maximum penalty (for each additional day or part of each additional day): 50 penalty units.

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108 Fail to comply with condition of licence or registration

(1) A person commits an offence if—

(a) the person—

(i) holds a licence; or

(ii) is registered as a waste transporter; and

(b) the licence or registration is subject to a condition; and

(c) the person fails to comply with the condition.

Maximum penalty: 50 penalty units.

(2) An offence against this section is a strict liability offence.

109 Unlawful transporting or depositing of waste

(1) A person commits an offence if—

(a) the person engages in conduct; and

(b) as a result of the conduct the person—

(i) transports waste to a place; or

(ii) causes or permits waste to be transported to a place; and

(c) the place is not—

(i) if the place is in the ACT—a waste facility operated by a person that is a licensee in relation to the facility; or

(ii) if the place is outside the ACT—a waste facility operated by a person that is authorised to operate the facility under a corresponding law of another State.

Maximum penalty: 500 penalty units.

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(2) In a proceeding for an offence under this section the defendant bears the onus of proving—

(a) if the defendant is charged with transporting, or causing or permitting waste to be transported to a place in the ACT—that the place is a waste facility that was operated by a person that is a licensee in relation to the facility; or

(b) if the defendant is charged with transporting, or causing or permitting waste to be transported to a place outside the ACT—that the place is a waste facility that was operated by a person that is authorised to operate the facility under a corresponding law of another State.

(3) It is a defence to a prosecution for an offence against subsection (1) if—

(a) for a prosecution that charges a defendant with having caused or permitted waste to be transported—the defendant proves—

(i) that the commission of the offence was due to causes over which the defendant had no control; and

(ii) that the defendant took reasonable precautions and exercised due diligence to prevent the commission of the offence; or

(b) generally—the defendant proves that—

(i) an approved notice was, at the time of the alleged offence, given to the defendant by the owner or occupier of the place to which the waste was transported or was displayed at the place; and

(ii) the approved notice stated that the place could lawfully be used as a waste facility for the waste; and

(iii) the defendant had no reasonable basis to believe that the place could not lawfully be used as a waste facility for the waste.

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(4) It is not a defence to a prosecution for an offence against subsection (1) if the defendant proves that the owner or occupier of a place told the defendant, other than in the form of an approved notice, that at the time of the offence the place could be lawfully used as a waste facility.

(5) In this section:

approved notice means a notice, in a form approved by the waste manager that—

(a) states that the place to which the notice relates can lawfully be used as a waste facility for the waste stated in the notice; and

(b) contains a certification by the owner or occupier of the place that the statement is correct.

110 Use of place as waste facility without lawful authority

(1) A person (the ***first person***) commits an offence if—

(a) the first person is the owner or occupier of a place; and

(b) the first person engages in conduct; and

(c) as a result of the conduct another person uses the place; and

(d) the first person is reckless about whether the other person uses the place as a waste site; and

Note The fault element of recklessness can be satisfied by proof of intention, knowledge or recklessness (see Criminal Code, s 20 (4)).

(e) the place is not a waste facility in relation to which the first person holds a licence.

Maximum penalty: 500 penalty units.

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(2) A person who engages in consecutive conduct that contravenes subsection (1) commits a separate offence for each day or part of each day of consecutive conduct that happens immediately after the first day the person engaged in the conduct.

Maximum penalty (for each additional day or part of each additional day): 200 penalty units.

111 Consent required for certain waste activities

A person commits an offence if—

(a) the person carries out a waste activity; and

(b) the activity is prescribed by regulation; and

(c) the person does not have the waste manager's written consent to carry out the activity.

Note 1 The waste manager may exempt people and activities from a provision of this Act (see s 67).

Note 2 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

Maximum penalty: 100 penalty units.

112 False or misleading information about waste

(1) A person commits an offence if the person—

(a) engages in conduct; and

(b) the conduct results in information about waste being given to another person in the course of dealing with the waste; and

(c) the person knows that the information is false or misleading in a material particular.

Maximum penalty: 200 penalty units.

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(2) A person commits an offence if the person—

(a) engages in conduct; and

(b) the conduct results in information about waste being given to another person in the course of dealing with the waste; and

(c) the information is false or misleading in a material particular; and

(d) the person is reckless as to whether the information is false or misleading in a material particular.

Maximum penalty: 100 penalty units.

(3) It is a defence to a prosecution for an offence against subsection (2) if the defendant proves that the defendant took reasonable steps to ensure that the information was not false or misleading in a material particular.

Note The defendant has a legal burden in relation to the matters mentioned in s (3) (see Criminal Code, s 59).

(4) If the court is satisfied that a person charged with an offence under subsection (1) is not guilty of that offence but is satisfied on the evidence that the person is guilty of an offence under subsection (2), the court may find the person guilty of the offence under subsection (2).

(5) For this section, information is taken to be given to a person in the course of dealing with waste if it is given—

(a) in the course of an activity relating to the sale or disposal of waste; or

(b) in the course of an activity relating to the storage, collection, transport, handling, deposit, transfer, processing, recycling, recovery, re-use or use of the waste.

(6) Proceedings for an offence against this section may be commenced only at the request of the waste manager.

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(7) In this section:

give information includes cause or permit information to be given.

information includes a record containing information.

information about waste means information about any of the following:

(a) the type, classification, characteristics, composition or quantity of the waste;

(b) the actual or proposed storage, collection, transport, handling, deposit, transfer, disposal, processing, recycling, recovery, re-use or use of the waste;

(c) the hazards or potential harm to the environment or human health associated with the waste or an activity referred to in paragraph (b).

113 Taking prescribed waste to landfill or other facility

A person commits an offence if the person—

(a) engages in conduct; and

(b) as a result of the conduct waste is taken to—

(i) landfill; or

(ii) a facility prescribed by regulation; and

(c) the waste is waste prescribed by regulation.

Note Power to make a statutory instrument (including a regulation) includes power to make different provision in relation to different matters or different classes of matters, and to make an instrument that applies differently by reference to stated exceptions or factors (see Legislation Act, s 48).

Maximum penalty: 150 penalty units.

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Part 16 Reconsideration of decisions

114 Definitions—pt 16

In this part:

affected person, for an original decision, means a person mentioned in schedule 1, column 4 in relation to the original decision.

original decision means a decision mentioned in schedule 1, column 3 (other than item 12) under a provision of this Act mentioned in column 2 in relation to the decision.

reconsideration application—see section 115 (2).

115 Applications for reconsideration

(1) This section applies if—

(a) the waste manager has made an original decision; and

(b) an application has not previously been made under this section for reconsideration of the original decision; and

(c) the ACAT has not decided an application for review of the original decision.

(2) An affected person for an original decision may apply for reconsideration of the original decision (a ***reconsideration application***).

(3) The reconsideration application must—

(a) be in writing signed by the applicant; and

(b) set out the grounds on which reconsideration is sought.

(4) The reconsideration application must be made not later than—

(a) 20 working days after the day the applicant is told about the original decision by the waste manager; or

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(b) any longer period allowed by the waste manager.

Note The waste manager may extend the period after the end of the period being extended (see Legislation Act, s 151C (3)).

116 Notice to ACAT of application

(1) This section applies if—

(a) an affected person makes a reconsideration application; and

(b) the person also applies to the ACAT for review of the original decision, whether before or after applying for reconsideration; and

(c) the ACAT gives the waste manager notice of the application for review.

(2) The waste manager must tell the ACAT, in writing, about the reconsideration application.

117 Reconsideration

(1) If the waste manager receives a reconsideration application, the director-general must—

(a) reconsider the original decision; and

(b) not later than 20 working days after the day the waste manager receives the application—

(i) make any decision in substitution for the original decision that the waste manager could have made when making the original decision; or

(ii) confirm the original decision.

Note A decision under this section is a reviewable decision (see s 120).

(2) However, the director-general must not take action under subsection (1) (b) if the ACAT has decided an application for review of the original decision.

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(3) The period mentioned in subsection (1) (b) may be extended for a stated period by agreement between the director-general and the applicant.

(4) In reconsidering the original decision, the director-general—

(a) must consider—

(i) any information available to the waste manager when the waste manager made the original decision; and

(ii) information given in the reconsideration application; and

(b) may consider any other relevant information.

(5) The director-general must ensure that, if the original decision is made on the waste manager's behalf by someone else (the ***original decision-maker***), the director-general or someone other than the original decision-maker reconsiders the decision.

118 No action by waste manager within time

If the director-general does not make a substitute decision, or confirm the original decision, by the end of the 20 working days, or the extended period, mentioned in section 117 (3), the director-general is taken to have confirmed the original decision.

119 Notice of decisions on reconsideration

As soon as practicable after reconsidering the original decision, the director-general must give written notice of the decision on the reconsideration to—

(a) the applicant; and

(b) the waste manager.

Note If the notice is given to a person who may apply to the ACAT for review of the decision to which it relates, the notice must be a reviewable decision notice (see s 121).

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Part 17 Notification and review of decisions

120 Definitions—pt 17

In this part:

decision-maker, for a reviewable decision, means the decision-maker mentioned in schedule 1, column 5 for the decision.

reviewable decision means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

121 Reviewable decision notices

If the decision-maker makes a reviewable decision, the decision-maker must give a reviewable decision notice to each person mentioned in schedule 1, column 4 in relation to the decision.

Note The decision-maker must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

122 Applications for review

The following people may apply to the ACAT for a review of a reviewable decision:

(a) a person mentioned in schedule 1, column 4 in relation to the decision;

(b) any other person whose interests are affected by the decision.

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Part 18 Miscellaneous

123 Delegation

The waste manager may delegate the waste manager's functions under this Act or another territory law to a public servant.

Note For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

124 Protection from liability

(1) An official is not civilly liable for conduct engaged in honestly and without recklessness—

(a) in the exercise of a function under this Act; or

(b) in the reasonable belief that the conduct was in the exercise of a function under this Act.

(2) Any civil liability that would, apart from this section, attach to the official attaches instead to the Territory.

(3) In this section:

conduct means an act or omission to do an act.

official means—

(a) the waste manager; or

(b) an authorised officer; or

(c) anyone else exercising a function under this Act.

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125 Service of documents

A document may be given to the waste manager by giving it to the director-general.

Note 1 For how documents may be served generally, see the Legislation Act, pt 19.5.

Note 2 The director-general may delegate the function under this section to a public sector officer, for example, a public servant (see *Public Sector Management Act 1994*, s 20).

126 Determination of fees and rates of interest

(1) The Minister may determine—

(a) fees for this Act; and

(b) the annual percentage rate at which interest payable under section 58 (Recovery of extra costs) is to be calculated; and

(c) the annual percentage rate at which interest accruing under section 59 (1) (a) (Money held by Territory as financial assurance) is to be calculated.

(2) In particular, fees may be determined—

(a) so that the fee increases as the quantity of waste increases; and

(b) so that different fees apply depending on the waste facility to which waste is being transferred; and

(c) according to the type of waste to which the waste activity relates.

Example—different fee depending on facility

A lower fee might be set for taking waste to a re-processing facility; a higher fee might apply if the waste were being taken to landfill.

(3) A determination is a disallowable instrument.

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(4) In this section:

fee includes—

(a) a fee that is a tax; and

(b) a charge or other amount (whether or not it is a tax).

128 Regulation-making power

(1) The Executive may make regulations for this Act.

(2) A regulation may—

(a) make provision in relation to the exclusion of a person or activity from a provision of this Act; and

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

(b) create offences for contraventions of the regulations and fix maximum penalties of not more than 40 penalty units for the offences; and

(c) make provision in relation to the content of scheme arrangements made under part 10A.

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Schedule 1 Reviewable decisions

(see pt 17)

column 1 item	column 2 section	column 3 decision	column 4 person	column 5 decision-maker
1	20 (2)	refuse to consider application until additional information provided	applicant for licence	waste manager
2	22 (1)	decision about application for licence	applicant for licence	waste manager
3	23 (b)	impose condition on licence	applicant for licence	waste manager
4	32 (1)	require applicant to provide additional information	applicant for registration	waste manager
5	34 (3)	decision about application for registration	applicant for registration	waste manager
6	34A (b)	impose condition on registration	applicant for registration	waste manager
7	46 (2)	take regulatory action	licensee	waste manager
8	48	immediately suspend licence	licensee	waste manager
9	64V (3) (b)	refuse to grant container approval	applicant	waste manager
10	64V (6) (b) (ii)	impose conditions on container approval	supplier	waste manager
11	64V (7)	suspend or revoke container approval	supplier	waste manager
12	67	refuse to give exemption	applicant	waste manager
13	70 (2)	issue compliance direction	person directed	waste manager
14	71 (1)	issue direction	person directed	waste manager
15	117 (1)	reconsideration of original decision	person applying for reconsideration	director-general

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Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACAT
- ACT
- administrative unit
- appoint
- chief officer (fire and rescue)
- Criminal Code
- director-general (see s 163)
- disallowable instrument (see s 9)
- fail
- function
- give
- may (see s 146)
- Minister (see s 162)
- must (see s 146)
- notifiable instrument (see s 10)
- penalty unit (see s 133)
- person
- police officer
- under.

affected person, for an original decision, for part 16 (Reconsideration of decisions)—see section 114.

approved container means a container, or a container within a class of containers, that is the subject of a container approval.

authorised person means a person appointed under section 74.

beverage, for part 10A (Container deposit scheme)—see section 64C.

collection point, for part 10A (Container deposit scheme)—see section 64D.

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collection point arrangement, for part 10A (Container deposit scheme)—see section 64N (1).

collection point operator, for a collection point, for part 10A (Container deposit scheme)—see section 64B.

connected, with an offence, for division 13.2 (Authorised people)—see section 73.

container, for part 10A (Container deposit scheme)—see section 64E.

container approval, for part 10A (Container deposit scheme)—see section 64B.

corresponding law, of a State, means—

(a) for this Act—a law of the State about the registration or licensing of people who carry out waste activities; and

(b) for part 10A (Container deposit scheme)—see section 64B.

Note ***State*** includes the Northern Territory (see Legislation Act, dict, pt 1).

decision-maker, for a reviewable decision, for part 17 (Notification and review of decisions)—see section 120.

enforceable undertaking, for part 14 (Enforceable undertakings)—see section 95.

environmental protection agreement—see the *Environment Protection Act 1997*, dictionary.

licence means a waste facility licence.

licensee, in relation to a licence, means the person that is the holder of the licence.

material recovery facility operator, for part 10A (Container deposit scheme)—see section 64B.

network arrangement, for part 10A (Container deposit scheme)—see section 64J (1) (b).

network operator, for part 10A (Container deposit scheme)—see section 64B.

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network operator agreement, for part 10A (Container deposit scheme)—see section 64B.

occupier, of premises, for division 13.2 (Authorised people)—see section 73.

offence, for division 13.2 (Authorised people)—see section 73.

original decision, for part 16 (Reconsideration of decisions)—see section 114.

person includes an unincorporated body.

premises, for division 13.2 (Authorised people)—see section 73.

proposed undertaking, for part 14 (Enforceable undertakings)—see section 96 (3).

reconsideration application, for part 16 (Reconsideration of decisions)—see section 115 (2).

refund amount, for part 10A (Container deposit scheme)—see section 64F.

refund marking, for part 10A (Container deposit scheme)—see section 64G.

registered, in relation to a waste transporter, means entered in the register of waste transporters.

register of waste facility licences means the register kept under section 25.

register of waste transporters means the register kept under section 37.

registration number—see section 34 (4) (b) (ii).

regulatory action, against a person, for part 7 (Regulatory action)—see section 43.

reviewable decision, for part 17 (Notification and review of decisions)—see section 120.

scheme, for part 10A (Container deposit scheme)—see section 64B.

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scheme administration agreement, for part 10A (Container deposit scheme)—see section 64H (1).

scheme arrangement, for part 10A (Container deposit scheme)—see section 64B.

scheme coordinator, for part 10A (Container deposit scheme)—see section 64B.

scheme coordinator agreement, for part 10A (Container deposit scheme)—see section 64B.

scheme participant, for part 10A (Container deposit scheme)—see section 64B.

show cause notice, for part 7 (Regulatory action)—see section 43.

store, for part 10 (Waste storage and collection)—see section 63.

supplier, for part 10A (Container deposit scheme)—see section 64B.

supply, for part 10A (Container deposit scheme)—see section 64B.

supply arrangement, for part 10A (Container deposit scheme)—see section 64J (1) (a).

undertakings register, for part 14 (Enforceable undertakings)—see section 95.

warrant, for division 13.2 (Authorised people)—see section 73.

waste—

(a) for this Act generally—see section 10; and

(b) for part 10 (Waste storage and collection)—see section 63.

waste activity—see section 11.

waste collection service, for part 10 (Waste storage and collection)—see section 63.

waste facility—see section 14.

waste facility licence—see section 15.

waste management business—see section 12.

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waste manager means the Waste Manager appointed under section 16.

waste site, for division 15.2 (Specific offences)—see section 106.

waste transporter—see section 13.

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Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act
AF = Approved form
am = amended
amdt = amendment
AR = Assembly resolution
ch = chapter
CN = Commencement notice
def = definition
DI = Disallowable instrument
dict = dictionary
disallowed = disallowed by the Legislative Assembly
div = division
exp = expires/expired
Gaz = gazette
hdg = heading
IA = Interpretation Act 1967
ins = inserted/added
LA = Legislation Act 2001
LR = legislation register
LRA = Legislation (Republication) Act 1996
mod = modified/modification
NI = Notifiable instrument
o = order
om = omitted/repealed
ord = ordinance
orig = original
par = paragraph/subparagraph
pres = present
prev = previous
(prev...) = previously
pt = part
r = rule/subrule
reloc = relocated
renum = renumbered
R[X] = Republication No
RI = reissue
s = section/subsection
sch = schedule
sdiv = subdivision
SL = Subordinate law
sub = substituted
underlining = whole or part not commenced or to be expired

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3 Legislation history

Waste Management and Resource Recovery Act 2016 A2016-51
notified LR 24 August 2016
s 1, s 2 commenced 24 August 2016 (LA s 75 (1))
remainder commenced 1 July 2017 (s 2 (2))

as amended by

Waste Management and Resource Recovery Amendment Act 2017 A2017-36 (as am by A2018-17 s 4)
notified LR 9 November 2017
s 1, s 2 commenced 9 November 2017 (LA s 75 (1))
s 3 commenced 22 December 2017 (LA s 75AA)
ss 4-9 commenced 22 December 2017 (s 2 (1) and CN2017-8)
s 13 commenced 20 February 2018 (s 2 (1) and CN2018-1)
s 10, so far as it inserts s 64X, commenced 30 June 2020 (s 2 (2) (a) (as am by A2018-17 s 4))
remainder commenced 30 June 2018 (s 2 (as am by A2018-17 s 4) and CN2018-7)

Waste Management and Resource Recovery Amendment Act 2018 A2018-17
notified LR 17 May 2018
s 1, s 2 commenced 17 May 2018 (LA s 75 (1))
remainder commenced 18 May 2018 (s 2)

Note This Act only amends the Waste Management and Resource Recovery Amendment Act 2017

Red Tape Reduction Legislation Amendment Act 2018 A2018-33 sch 1 pt 1.39
notified LR 25 September 2018
s 1, s 2 commenced 25 September 2018 (LA s 75 (1))
sch 1 pt 1.39 commenced 23 October 2018 (s 2 (4))

Planning and Environment Legislation Amendment Act 2020 A2020-22 pt 10
notified LR 10 June 2020
s 1, s 2 commenced 10 June 2020 (LA s 75 (1))
pt 10 commenced 11 June 2020 (s 2)

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Emergencies Amendment Act 2020 A2020-47 sch 1 pt 1.8
notified LR 3 September 2020
s 1, s 2 commenced 3 September 2020 (LA s 75 (1))
sch 1 pt 1.8 commenced 4 September 2020 (s 2)

Statute Law Amendment Act 2021 A2021-12 sch 3 pt 3.63
notified LR 9 June 2021
s 1, s 2 commenced 9 June 2021 (LA s 75 (1))
sch 3 pt 3.63 commenced 23 June 2021 (s 2 (1))

Statute Law Amendment Act 2022 A2022-14 sch 3 pt 3.42
notified LR 10 August 2022
s 1, s 2 commenced 10 August 2022 (LA s 75 (1))
sch 3 pt 3.42 commenced 24 August 2022 (s 2)

Better Regulation Legislation Amendment Act 2025 A2025-13 pt 11
notified LR 26 May 2025
s 1, s 2 commenced 26 May 2025 (LA s 75 (1))
pt 11 commenced 26 November 2025 (s 2 (2) and LA s 79))

Statute Law Amendment Act 2025 A2025-29 sch 3 pt 3.102, sch 4 pt 4.190
notified LR 6 November 2025
s 1, s 2 commenced 6 November 2025 (LA s 75 (1))
sch 3 pt 3.102, sch 4 pt 4.190 commenced 26 November 2025 (s 2 (3), (9))

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4 Amendment history

Commencement
s 2 om LA s 89 (4)

Relationship with Emergencies Act 2004
s 6 am A2020-47 amdts 1.19-1.21; pars renum R9 LA

Meaning of *waste management business*
s 12 am A2017-36 s 4

Meaning of *waste facility*
s 14 sub A2020-22 s 26

Appointment
s 16 am A2025-29 amdt 4.193

Application for licence
s 19 am A2021-12 amdt 3.179; A2025-29 amdt 4.193

Decision about application for licence
s 22 am A2017-36 s 5; A2025-29 amdt 4.193

Register of waste facility licences
s 25 am A2025-13 s 29

Term of licence
s 29 am A2017-36 s 6

Application to be registered
s 31 am A2021-12 amdt 3.179; A2025-29 amdt 4.193

Decision about application for registration
s 34 am A2017-36 s 7; A2025-29 amdt 4.193

Registration conditions
s 34A ins A2017-36 s 8

Register of waste transporters
s 37 am A2025-13 s 30

Approval of GPS tracking device
s 39 am A2025-29 amdt 4.193
om A2025-13 s 31

GPS to be fitted to vehicles
s 40 om A2025-13 s 31

Term of registration
s 42 am A2017-36 s 9

Code of practice—approval
s 60 am A2025-29 amdt 4.193

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Container deposit scheme
pt 10A hdg ins A2017-36 s 10

General
div 10A.1 hdg ins A2017-36 s 10

Objects—pt 10A
s 64A ins A2017-36 s 10

Definitions—pt 10A
s 64B ins A2017-36 s 10
def ***beverage*** ins A2017-36 s 10
def ***collection point*** ins A2017-36 s 10
def ***collection point arrangement*** ins A2017-36 s 10
def ***collection point operator*** ins A2017-36 s 10
sub A2020-22 s 27
def ***container*** ins A2017-36 s 10
def ***container approval*** ins A2017-36 s 10
def ***corresponding law*** ins A2017-36 s 10
def ***material recovery facility operator*** ins A2017-36 s 10
def ***network arrangement*** ins A2017-36 s 10
def ***network operator*** ins A2017-36 s 10
def ***network operator agreement*** ins A2017-36 s 10
def ***refund amount*** ins A2017-36 s 10
def ***refund marking*** ins A2017-36 s 10
def ***scheme*** ins A2017-36 s 10
def ***scheme administration agreement*** ins A2017-36 s 10
def ***scheme arrangement*** ins A2017-36 s 10
def ***scheme coordinator*** ins A2017-36 s 10
def ***scheme coordinator agreement*** ins A2017-36 s 10
def ***scheme participant*** ins A2017-36 s 10
def ***supplier*** ins A2017-36 s 10
def ***supply*** ins A2017-36 s 10
def ***supply arrangement*** ins A2017-36 s 10

Meaning of *beverage*—pt 10A
s 64C ins A2017-36 s 10

Meaning of *collection point*—pt 10A
s 64D ins A2017-36 s 10
sub A2020-22 s 28

Meaning of *container*—pt 10A
s 64E ins A2017-36 s 10

Meaning of *refund amount*—pt 10A
s 64F ins A2017-36 s 10

Meaning of *refund marking*—pt 10A
s 64G ins A2017-36 s 10

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Scheme administration
div 10A.2 hdg ins A2017-36 s 10

Scheme administration agreements
s 64H ins A2017-36 s 10
am A2025-29 amdt 4.193

Amending and ending scheme administration agreements
s 64I ins A2017-36 s 10

Scheme coordinator agreement
div 10A.3 hdg ins A2017-36 s 10

Content of scheme coordinator agreement
s 64J ins A2017-36 s 10

Approval of network arrangements
s 64K ins A2017-36 s 10
am A2021-12 amdt 3.179; A2025-29 amdt 4.193

Payment of refund amounts to material recovery facility operators
s 64L ins A2017-36 s 10
am A2025-29 amdt 4.193

Term of scheme coordinator agreement
s 64M ins A2017-36 s 10

Network operator agreements
div 10A.4 hdg ins A2017-36 s 10

Content of network operator agreements
s 64N ins A2017-36 s 10
am A2020-22 s 29

Approval of collection point arrangements
s 64O ins A2017-36 s 10
am A2021-12 amdt 3.179; A2025-29 amdt 4.193

Scheme compliance
div 10A.5 hdg ins A2017-36 s 10

Inconsistent provisions void
s 64P ins A2017-36 s 10

Penalties for contravention
s 64Q ins A2017-36 s 10

Monitoring and enforcement of compliance
s 64R ins A2017-36 s 10

Performance audit
s 64S ins A2017-36 s 10

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Register of approved containers and collection points
s 64T ins A2017-36 s 10

Reports by scheme coordinator
s 64U ins A2017-36 s 10

Supply and collection of containers
div 10A.6 hdg ins A2017-36 s 10

Supply of approved containers
sdiv 10A.6.1 hdg ins A2017-36 s 10

Container approvals
s 64V ins A2017-36 s 10
am A2021-12 amdt 3.179

Requirement for supply arrangement with scheme coordinator and container approval
s 64W ins A2017-36 s 10

Requirement for refund markings on containers
s 64X ins A2017-36 s 10

Collection of containers
sdiv 10A.6.2 hdg ins A2017-36 s 10

Refund amounts payable by collection point operators
s 64Y ins A2017-36 s 10

Refund declarations and proof of identity
s 64Z ins A2017-36 s 10

Offence—claiming refund for containers not subject to scheme
s 64ZA ins A2017-36 s 10

Miscellaneous
div 10A.7 hdg ins A2017-36 s 10

Authorisations for Competition and Consumer Act 2010 (Cwlth)
s 64ZB ins A2017-36 s 10

Review of part
s 64ZC ins A2017-36 s 10
exp 30 June 2024 (s 64ZC (3))

Waste activity report
s 65 am A2021-12 amdt 3.179

Declaration exempting person or activity
s 67 am A2021-12 amdt 3.179; A2025-29 amdt 4.193

Direction to stop contravening Act etc
s 70 am A2017-36 s 11; A2025-29 amdt 4.193

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Directions—stockpiling materials and delivering waste
s 71 am A2025-29 amdt 4.193

Power to enter premises
s 77 am A2022-14 amdt 3.217

Production of identity card
s 78 am A2022-14 amdt 3.218

Consent to entry
s 79 am A2022-14 amdt 3.218

Direction to give name and address
s 82 am A2025-29 amdt 4.193

Warrants—application other than in person
s 85 am A2018-33 amdt 1.75, amdt 1.76

Search warrants—announcement before entry
s 86 am A2022-14 amdt 3.219

Making of proposed undertakings
s 96 am A2021-12 amdt 3.179; A2025-13 s 32, s 33

Criminal liability of executive officers—pt 15
s 105 am A2025-29 amdt 3.361

Applications for reconsideration
s 115 am A2021-12 amdt 3.179

Reviewable decision notices
s 121 am A2025-29 amdt 4.193

Applications for review
s 122 am A2025-29 amdt 4.193

Service of documents
s 125 am A2022-14 amdt 3.220

Determination of fees and rates of interest
s 126 am A2025-29 amdt 4.193

Approved forms
s 127 om A2021-12 amdt 3.180

Regulation-making power
s 128 am A2017-36 s 12; A2025-29 amdt 4.193

Repeals and consequential amendment
pt 19 hdg om LA s 89 (3)

Legislation repealed
s 129 om LA s 89 (3)

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Clinical Waste Act 1990

s 130 om LA s 89 (3)

Transitional

pt 30 hdg exp 1 July 2018 (s 151)

Transitional regulation

s 150 exp 1 July 2018 (s 151)

Expiry—pt 30

s 151 exp 1 July 2018 (s 151)

Reviewable decisions

sch 1 am A2017-36 s 13; items renum R3 LA; A2017-36 s 14; items renum R4 LA; A2025-13 s 34; items renum R13 LA

Dictionary

dict
def ***approved container*** ins A2017-36 s 15
def ***beverage*** ins A2017-36 s 15
def ***collection point*** ins A2017-36 s 15
def ***collection point arrangement*** ins A2017-36 s 15
def ***collection point operator*** ins A2017-36 s 15
def ***container*** ins A2017-36 s 15
def ***container approval*** ins A2017-36 s 15
def ***corresponding law*** sub A2017-36 s 16
def ***material recovery facility operator*** ins A2017-36 s 15
def ***network arrangement*** ins A2017-36 s 15
def ***network operator*** ins A2017-36 s 15
def ***network operator agreement*** ins A2017-36 s 15
def ***refund amount*** ins A2017-36 s 15
def ***refund marking*** ins A2017-36 s 15
def ***scheme*** ins A2017-36 s 15
def ***scheme administration agreement*** ins A2017-36 s 15
def ***scheme arrangement*** ins A2017-36 s 15
def ***scheme coordinator*** ins A2017-36 s 15
def ***scheme coordinator agreement*** ins A2017-36 s 15
def ***scheme participant*** ins A2017-36 s 15
def ***supplier*** ins A2017-36 s 15
def ***supply*** ins A2017-36 s 15
def ***supply arrangement*** ins A2017-36 s 15

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5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 1 July 2017	1 July 2017- 21 Dec 2017	not amended	new Act
R2 22 Dec 2017	22 Dec 2017– 19 Feb 2018	A2017-36	amendments by A2017-36
R3 20 Feb 2018	20 Feb 2018– 29 June 2018	A2017-36	amendments by A2017-36
R4 30 June 2018	30 June 2018– 1 July 2018	A2018-17	amendments by A2017-36 as amended by A2018-17
R5 2 July 2018	2 July 2018– 22 Oct 2018	A2018-17	expiry of transitional provisions (pt 30)
R6 23 Oct 2018	23 Oct 2018– 10 June 2020	A2018-33	amendments by A2018-33
R7 11 June 2020	11 June 2020– 29 June 2020	A2020-22	amendments by A2020-22
R8 30 June 2020	30 June 2020– 3 Sept 2020	A2020-22	amendments by A2017-36 as amended by A2018-17
R9 4 Sept 2020	4 Sept 2020– 22 June 2021	A2020-47	amendments by A2020-47
R10 23 June 2021	23 June 2021– 23 Aug 2022	A2021-12	amendments by A2021-12

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Republication No and date	Effective	Last amendment made by	Republication for
R11 24 Aug 2022	24 Aug 2022– 30 June 2024	A2022-14	amendments by A2022-14
R12 1 July 2024	1 July 2024– 25 Nov 2025	A2022-14	expiry of provision (s 64ZC)

6 Expired transitional or validating provisions

This Act may be affected by transitional or validating provisions that have expired. The expiry does not affect any continuing operation of the provisions (see *Legislation Act 2001*, s 88 (1)).

Expired provisions are removed from the republished law when the expiry takes effect and are listed in the amendment history using the abbreviation 'exp' followed by the date of the expiry.

To find the expired provisions see the version of this Act before the expiry took effect. The ACT legislation register has point-in-time versions of this Act.

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