

Waste Management and Resource Recovery (Processing Refund Protocol) Determination 2018

Disallowable instrument DI2018–208

made under the

Waste Management and Resource Recovery Act 2016, section 64L (Processing Refunds)

EXPLANATORY STATEMENT

To combat the littering of empty beverage containers and increase opportunities for their recovery and recycling, the Territory is introducing a container deposit scheme where the community and beverage consumers can get a 10 cent refund for each used beverage container returned.

Refunds will be paid to consumers at a network of collection points in the Territory. Refunds will also be paid to a Materials Recovery Facility (MRF) operator for eligible beverage containers received and recycled from household (yellow) recycling bins. These are called Processing Refunds.

Processing refunds are required to ensure kerbside recycling complements the collection point network and makes kerbside recycling a legitimate way to return containers under the scheme.

This explanatory statement relates to the *Waste Management and Resource Recovery (Processing Refund Protocol) Determination 2018*. It is made under section 64 L of the *Waste Management and Resource Recovery Act 2016* (Act) and sets out the methodology to determine the refunds payable to MRF Operators.

This explanatory statement has been prepared to assist the reader and to help inform debate. It does not form part of the determination and has not been endorsed by the ACT Legislative Assembly.

This explanatory statement must be read in conjunction with the determination. It is not intended to be a comprehensive description of the determination. What is written

about a provision is not to be taken as an authoritative statement of the meaning of a provision, this being a responsibility of the courts.

A Regulatory Impact Statement for this disallowable instrument is not required in accordance with section 34(1) of the *Legislation Act 2001*, as it is not likely to impose appreciable costs on the community, or part of the community. Further, a Regulatory Impact Statement is unnecessary in accordance with section 36(1)(b), (e) and (f) of the *Legislation Act 2001*.

This instrument does not engage or limit any person's human rights.

This instrument is consistent with the Legislative Assembly's Scrutiny Bills Committee Terms of Reference. In particular, the instrument:

- is made under a power found in the Act;
- is in accordance with the general objects of the Act under which the instrument is made;
- does not unduly trespass on rights previously established by law; and
- does not make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions.

Overview of provisions

The Processing Refund Protocol is a document required to be made under section 64L of the Act by the Waste Manager to set out the methodology to determine the amounts payable to MRF Operators by the Scheme Coordinator as processing refunds (Protocol).

As beverage containers are not individually counted at a MRF, the Protocol uses conversion factors and formulas to determine the number of containers eligible for processing refunds from the weight of materials received, processed and shipped for recycling from a MRF.

The conversion factors and formulas were developed from weight based sampling. In addition, the Protocol details the reporting requirements, payment terms, auditing, compliance and dispute resolution processes around the calculation and payment of processing refunds.

Section 1

Provides information about the status and currency of the Protocol.

Section 2

Provides information about the authority for the Protocol.

Section 3

Sets out the eligibility criteria which a MRF Operator must meet before it can claim for payment of processing refunds.

Section 4

Sets out the timeframe for review of the Protocol.

Section 5

Defines specific terms used within the Protocol.

Section 6

Sets out the aims of the Protocol.

Section 7

Sets out how a MRF Operator goes about making a claim for processing refunds in respect of eligible beverage containers received through kerbside recycling bins and processed for recycling. The section also sets out available calculation methods, records keeping requirements, the accuracy of measurement of weights of recyclable materials, and the information to be provided to support a claim.

Section 8

Sets out how the scheme coordinator will assess any claim for processing refunds made by a MRF Operator, including the calculation of containers numbers from incoming material weights, the calculation of conversion factors, formulas to be applied to ensure only processing refunds are paid in respect of containers received in the domestic kerbside recycling (yellow bin) waste stream. It also specifies the timeframes for assessing, reviewing and amending claims.

Section 9

Sets out the process to be undertaken to determine the factor to be applied to convert the weight of recyclable materials into a number of containers for which a processing refund can be paid, including how sampling will be used to determine this factor.

Section 10

Sets out detailed reporting and record keeping requirements for MRF Operators who make claims for processing refunds to substantiate those claims.

Section 11

Sets out independent assurance requirements to ensure claims and payments of processing refunds are independently verified and audited.

Section 12

Sets out the process to resolve disputes about processing refund claims or payment between a MRF Operator and the scheme coordinator.

Section 13

Provides ACT Government staff may carry out audits and inspections of Materials Recovery Facilities to monitor compliance with the Protocol.

Section 14

Provides the ACT Government with the ability to specify the forms of documents to be provided by the Protocol.