

Circular Economy (Waste Reduction and Recycling) (Risk, Consequence and Contingency Plans) Regulations 2023

The Governor in Council makes the following Regulations:

Dated:

Responsible Minister:

INGRID STITT

Minister for Environment

Clerk of the Executive Council

1 Objectives

The objectives of these Regulations are—

- (a) to prescribe certain services as essential waste, recycling or resource recovery services; and
- (b) to prescribe certain entities as responsible entities and to prescribe the obligations of responsible entities with respect to the content of, and compliance with, Responsible Entity Risk, Consequence and Contingency Plans; and
- (c) to prescribe requirements relating to the preparation and content of Circular Economy Risk, Consequence and Contingency Plans; and
- (d) to prescribe offences; and
- (e) to prescribe fees and other requirements relating to exemptions from these Regulations under Division 2 of Part 2 of the **Circular Economy (Waste Reduction and Recycling) Act 2021**; and
- (f) to provide for the waiver or reduction of fees by the Head, Recycling Victoria.

2 Authorising provision

These Regulations are made under section 183 of the **Circular Economy (Waste Reduction and Recycling) Act 2021**.

3 Commencement

These Regulations come into operation on 1 December 2023.

4 Definitions

In these Regulations—

component, in relation to an essential waste, recycling or resource recovery service, means any of the following—

- (a) collection of waste;
- (b) transport of waste;
- (c) storage of waste;
- (d) treatment of waste;
- (e) processing of waste;
- (f) sorting of waste;
- (g) recycling of waste;
- (h) disposal of waste;
- (i) collection of materials for resource recovery;
- (j) transport of materials for resource recovery;
- (k) storage of materials for resource recovery;
- (l) treatment of materials for resource recovery;
- (m) processing of materials for resource recovery;
- (n) sorting of materials for resource recovery;

the Act means the **Circular Economy (Waste Reduction and Recycling) Act 2021**;

Victorian market share has the meaning given in regulation 7.

5 Essential waste, recycling or resource recovery service

For the purposes of the definition of ***essential waste, recycling or resource recovery service*** in section 3(1) of the Act, a waste, recycling or resource recovery service specified in column 2 of Table 1 in Schedule 1 that provides services described in the corresponding entry in column 3 of the Table is prescribed as an essential waste, recycling or resource recovery service, unless those services are of a type described in the corresponding entry in column 4 of the Table.

6 Responsible Entity

- (1) For the purposes of the definition of ***responsible entity*** in section 74A of the Act, an entity that provides an essential waste, recycling or resource recovery service is prescribed as a responsible entity if—
- (a) the entity holds 20 per cent or more of the Victorian market share for—
 - (i) that service; or
 - (ii) a component of that service; or
 - (iii) that service for a type of waste; or

Example

Clinical waste is a type of waste dealt with by an essential waste, recycling or resource recovery service that provides hazardous waste services.

- (b) the entity holds government contracts related to that service worth over \$50 million; or

Note

The value of a contract includes the value of any options to extend the contract.

- (c) the entity provides services under ongoing arrangements or at regular intervals in three or more declared regions.
- (2) Subregulation (1)(a)(i) does not apply to a service if—
 - (a) a CERCC Plan is not in force; or
 - (b) the total annual volume of waste managed in Victoria by all providers of that service is not published in the CERCC Plan that is in force.
 - (3) Subregulation (1)(a)(ii) does not apply to a component of a service if—
 - (a) a CERCC Plan is not in force; or
 - (b) the total annual volume of waste managed in Victoria by all providers of that component of the service is not published in the CERCC Plan that is in force.
 - (4) Subregulation (1)(a)(iii) does not apply to a service for a type of waste if—
 - (a) a CERCC Plan is not in force; or
 - (b) the total annual volume of waste of that type managed in Victoria by all providers of that service is not published in the CERCC Plan that is in force.
 - (5) For the purposes of subregulation (1), a person does not provide a service in a declared region solely by transporting waste and materials for resource recovery through that region.

7 Meaning of Victorian market share

- (1) The **Victorian market share** held by an entity providing an essential waste, recycling or resource recovery service is the total volume of waste managed in Victoria by the entity in the course of providing that service, a component of that service or that service for a type of waste, expressed as a percentage of the total volume of waste managed in Victoria by all providers of that service, that component of that service or that service for that type of waste (as the case requires).
- (2) The total volume of waste managed in Victoria by all providers of a service, a component of a service or a service for a type of waste for a period is the volume specified in the CERCC Plan relating to that period.

8 Offence to fail to notify the Head, Recycling Victoria when an entity becomes a responsible entity

- (1) An entity that is a responsible entity at the commencement of these regulations must notify the Head, Recycling Victoria that it is a responsible entity by 1 February 2024.

Penalty: In the case of a natural person, 60 penalty units;
In the case of a body corporate, 300 penalty units.

- (2) An entity that becomes a responsible entity after the commencement of these Regulations must notify the Head, Recycling Victoria that it is a responsible entity within 60 days after—
- (a) the publication of a CERCC Plan, the contents of which allow the entity to determine its status as a responsible entity under regulations 6(1)(a) and 7; or
 - (b) any change relating to the entity's service provision that results in the entity becoming a responsible entity.

Penalty: In the case of a natural person, 60 penalty units;
In the case of a body corporate, 300 penalty units.

- (3) For the purposes of subregulations (1) and (2), the entity must notify the Head, Recycling Victoria in writing and in the manner and form approved by the Head, Recycling Victoria.

9 Offence to fail to notify the Head, Recycling Victoria when an entity ceases to be a responsible entity

- (1) An entity must notify the Head, Recycling Victoria that it has ceased to be a responsible entity within 60 days after ceasing to be a responsible entity.

Penalty: In the case of a natural person, 10 penalty units;
In the case of a body corporate, 50 penalty units.

- (2) For the purposes of subregulation (1), the entity must notify the Head, Recycling Victoria in writing and in the manner and form approved by the Head, Recycling Victoria.

10 Preparation of the CERCC Plan

For the purposes of 1B.1 of Schedule 1 to the Act, in preparing a CERCC Plan, the Head, Recycling Victoria must do the following—

- (a) undertake a review of any CERCC Plan in force at the time of preparing a new CERCC Plan, to inform the preparation of the new CERCC Plan;
- (b) make a draft CERCC Plan available for a consultation period of at least 14 calendar days to—
 - (i) the responsible entities; and
 - (ii) any public sector body that may be affected by the CERCC Plan; and
 - (iii) any other person or entity that the Head, Recycling Victoria considers appropriate;
- (c) consider any comments and submissions received during the consultation period and revise the CERCC Plan as appropriate before it is provided to the Minister.

Note:

See also section 74B(2) of the Act which requires preparation of the CERCC Plan to be in accordance with any guidelines issued under section 74K of the Act.

11 Content of the CERCC Plan

For the purposes of section 74B(2)(i) of the Act, the following matters are prescribed—

- (a) any information available to the Head, Recycling Victoria regarding the total volume of waste managed in Victoria for each—
 - i. essential waste, recycling and resource recovery service; and
 - ii. component of the essential waste, recycling or resource recovery service; and
 - iii. type of waste relating to the essential waste, recycling or resource recovery service; and
- (b) the period to which the information included in the CERCC Plan in accordance with paragraph (a) relates.

12 Content of RERCC Plans

For the purposes of section 74F(2)(e) of the Act, the following matters are prescribed—

- (a) the following information about the responsible entity—
 - i. the Australian Company Number, if applicable;
 - ii. the Australian Business Number, if applicable;
 - iii. the address of the entity and address of any other sites where the entity operates;
 - iv. the name and contact details of any directors, the chief executive officer, the chief financial officer, the secretary or any other officer who has control or substantial control over the management of the entity;
- (b) date of preparation of the RERCC Plan;
- (c) date and details of any revisions made to the entity's previous RERCC Plan (if applicable);
- (d) a description of the essential waste, recycling or resource recovery services provided by the entity;
- (e) which of the criteria in regulation 6(1) the entity meets and a description of how the entity meets that criteria, including—
 - i. in the case of an entity that meets criteria in regulation 6(1)(a), the percentage of the Victorian market share that applies to the entity and the service and, if applicable, the component of the service or type of waste to which that Victorian market share relates; and
 - ii. in the case of an entity that meets criteria in regulation 6(1)(b), the value of the relevant government contracts and the services to which they relate; and
 - iii. in the case of an entity that meets criteria in regulation 6(1)(c), the services provided by the entity that meet the criteria, the declared regions in which the entity provides those services and the intervals at which the services are provided;
- (f) the roles and responsibilities of employees of the entity in relation to the preparation and compliance with the RERCC Plan;
- (g) details of any notifications provided to the Head, Recycling Victoria under sections 74D(3) or 74H(3) of the Act;

- (h) the names of any other entities that provide services under ongoing arrangements or at regular intervals to the entity that are related to the delivery of the essential waste, recycling or resource recovery service;
- (i) the names of any other entities that receive services under ongoing arrangements or at regular intervals from the entity that are related to the delivery of the essential waste, recycling or resource recovery service;
- (j) details of the identified risks of serious failure, disruption or hindrance to the provision of the essential waste, recycling or resource recovery service for the purposes of section 74F(2)(a), including for each identified risk—
 - (i) an assessment of the likelihood and consequences of it occurring; and
 - (ii) an assessment of the gravity of the risk based on its likelihood and consequences;
- (k) details of when and how the actions and contingency measures for the purposes of section 74F(2)(b) will be taken;
- (l) steps that the responsible entity must take for the monitoring and management of any inherent and residual risks remaining following application of the actions and contingency measures that the responsible entity is taking, or proposes to take, to prevent or minimise identified risks;
- (m) a list of documents used in the preparation of the RERCC Plan;
- (n) an explanation setting out how the implementation of the RERCC Plan will be monitored and evaluated.

13 Requirements of the RERCC Plan with which it is an offence to fail to comply

For the purposes of item 1B.6 of Schedule 1 to the Act, the following are prescribed requirements of a RERCC Plan with which it is an offence for a responsible entity to fail to comply—

- (a) the responsible entity must take the actions and contingency measures identified in the RERCC Plan in accordance with section 74F(2)(b) of the Act and in accordance with the timeframes specified in the RERCC plan accordance with regulation 12(k);
- (b) the responsible entity must ensure that employees carry out their roles and responsibilities as detailed in the RERCC Plan in accordance with regulation 12(f);
- (c) the responsible entity must monitor and manage inherent and residual risks as detailed in the RERCC Plan in accordance with regulation 12(l);
- (d) the responsible entity must monitor and evaluate the implementation of the RERCC Plan as detailed in accordance with regulation 12(n).

14 Application for exemption

- (1) For the purposes of section 24(1)(a) of the Act, the prescribed form for an application for exemption from a requirement of these Regulations is set out in Schedule 2.
- (2) For the purposes of section 24(1)(b) of the Act, the prescribed information to be contained in an application for exemption from a requirement of these Regulations is the information set out in Schedule 2.

15 Application for amendment of an exemption

For the purposes of section 26(1)(a) of the Act, the prescribed form for an application to amend an exemption from a requirement of these Regulations is set out in Schedule 3.

16 Prescribed fees for exemption applications

- (1) For the purposes of section 24(1)(c) of the Act, the prescribed fee for an application for exemption from a requirement of these Regulations is 47 fee units.
- (2) For the purposes of section 26(1)(b) of the Act, the prescribed fee for an application to amend an exemption from a requirement of these Regulations is –
 - (a) in the case of an amendment to correct an error, to change the name, address or contact details of the exempt person, or to extend the period during which the exemption remains in force, 12 fee units;
 - (b) in any other case, 22 fee units.

17 Waiver

The Head, Recycling Victoria, may waive or reduce any fees payable under regulation 16.

Schedule 1 – Table of essential waste, recycling and resource recovery services

Regulation 5

1 Definitions

In this Schedule—

dangerous goods has the same meaning as in section 3(1) of the **Dangerous Goods Act 1985**;

designated waste has the same meaning as in regulation 4 of the Environment Protection Regulations 2021;

e-waste has the same meaning as in regulation 4 of the Environment Protection Regulations 2021;

hazardous waste means—

- a) reportable priority waste; or
- b) radioactive materials; or
- c) dangerous goods;

public utility means any of the following—

- (a) a distribution company within the meaning of section 3 of the **Electricity Industry Act 2000**;
- (b) a gas distribution company within the meaning of section 3 of the **Gas Industry Act 2001**;
- (c) a water corporation within the meaning of section 3(1) of the **Water Act 1989**;
- (d) a telecommunications carrier.

radioactive materials has the same meaning as in section 3(1) of the **Radiation Act 2005**;

reportable priority waste has the meaning given by section 3(1) of the **Environment Protection Act 2017**.

2 Table of prescribed essential waste, recycling and resource recovery services

Table 1—Essential waste, recycling and resource recovery services

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Item</i>	<i>Essential waste, recycling and resource recovery service</i>	<i>Description of the service</i>	<i>Exclusions</i>
1	Landfill services	Services relating to the operation of a landfill facility that receives, discharges or deposits solid waste to land, including waste containment and all associated services including but not limited to landfill gas management and	Services relating to— a) the operation of a municipal landfill facility occupied by a council servicing fewer than 5000 people; or b) a landfill used only for the discharge or deposit of

		<p>leachate disposal. This includes landfill services related to the disposal of any of the following—</p> <ul style="list-style-type: none"> a) hazardous waste; b) putrescible waste; c) solid inert waste. 	<p>mining or extractive industry wastes in accordance with the Mineral Resources (Sustainable Development) Act 1990 that discharges or deposits waste solely to land; or</p> <ul style="list-style-type: none"> c) the care and maintenance of a closed landfill facility.
2	Hazardous waste services	<p>Services relating to any of the following—</p> <ul style="list-style-type: none"> d) the management of reportable priority waste; e) the management of the disposal of radioactive materials; f) services relating to the disposal of dangerous goods. 	<p>Services relating to the temporary storage of—</p> <ul style="list-style-type: none"> a) 40 m³ or less of any biomedical waste not generated at the site by a council, a health service or an ambulance service; or b) less than 10 m³ of double wrapped, non-friable asbestos not generated at the site for a period of no more than 60 days on land— <ul style="list-style-type: none"> (i) permitted under a planning scheme made under the Planning and Environment Act 1987 for use as a transfer station and which is allowed to accept asbestos; or (ii) used as a depot by a public utility or a contractor of the public utility that stores only asbestos generated by the public utility or a contractor of the public utility and that is 100 metres or more from sensitive land uses, including residential premises, health services, childcare centres and education centres; or c) 1000 litres or less of designated waste not

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			generated at the site if the storage is for a period of no more than 60 days.
3	Residual waste services	Services relating to residual waste arising from any of the following— a) municipal activities; b) commercial activities; c) industrial activities; d) public waste services.	
4	Thermal waste to energy services	Services relating to the operation of a thermal waste to energy facility.	
5	E-waste services	Services relating to the management or disposal of e-waste.	
6	Long term waste containment services	Services relating to the long term on-site retention of any waste type in a structure (other than a landfill) specifically designed to contain waste.	
7	Construction and demolition waste services	Services relating to wastes generated by construction and demolition activities.	Services related to skip bin services for private domestic construction and demolition works.
8	Metal recycling services	Services related to waste metals.	
9	Municipal resource recovery centre and transfer station services	Services provided by or on behalf of a council or Alpine Resort Management Board relating to the operation of a— a) Resource Recovery Centre; or b) Transfer Station.	
10	Recycling services (co-mingled)	Services relating to any of the following— a) recyclable materials (commingled) collected from: (i) municipal activities; or (ii) commercial activities; or (iii) industrial activities; or (iv) public waste services; b) recycling from waste arising from municipal, commercial or industrial activities.	

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11	Organics services	<p>Services related to organic wastes including any of the following—</p> <ul style="list-style-type: none"> a) municipal food organics and garden organics services; b) commercial and industrial food organics and garden organics services; c) municipal green waste services; d) commercial and industrial green waste services; e) services processing organic waste by aerobic or anaerobic biological conversion; f) rendering, in which substances derived from animals are manufactured or extracted. 	<p>Services related to operations processing of organic waste generated on-site where the processed organic waste is retained on-site.</p>
12	Public waste services	<p>Waste services provided by or on behalf of a government agency on public land including any of the following—</p> <ul style="list-style-type: none"> a) waste services; b) litter services; c) waste-related maintenance of public assets including roadways (street sweeping and removal of roadkill); d) collection, transportation and disposal of illegally dumped waste. 	
13	Secure waste destruction services	<p>Services providing secure destruction of waste including any of the following—</p> <ul style="list-style-type: none"> a) documents; b) records; c) products; d) e-waste; e) hazardous waste; f) other waste of a secure or confidential nature. 	
14	Recycling services (glass)	<p>Services relating to—</p> <ul style="list-style-type: none"> a) recyclable glass materials collected from any of the following— <ul style="list-style-type: none"> (i) municipal activities; (ii) commercial activities; 	

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		(iii) industrial activities; (iv) public waste services; (v) container deposit scheme. b) the recycling of glass arising from municipal, commercial or industrial activities.	
15	Container deposit scheme services	Services relating to the operation of the container deposit scheme.	

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Schedule 2 – Form of application for exemption

Regulation 14

Circular Economy (Waste Reduction and Recycling) Act 2021

Circular Economy (Waste Reduction and Recycling) (Risk, Consequence and Contingency)

Regulations 2023

Application for exemption

Applicant details

Name:

Postal address:

Street address:

Email:

Contact number:

Australian Company Number (if applicable):

Australian Business Number (if applicable):

Exemption information

Provision(s) in these regulations from which exemption is sought:

Reasons for seeking exemption:

[Provide a description of the reasons why the exemption is sought, including whether the exemption is being sought for only particular circumstances]

Period for which the exemption is sought:

Other related information:

[Provide a description of any alternative approaches or risk mitigations proposed to be adopted, if applicable, and how these will meet the purposes of the Act and objectives of these regulations from which exemption is sought. Attach any supporting evidence]

Consultation:

[Provide a description of any consultation that has been carried out with any person whose interests may be affected by the proposed exemption]

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Declaration

The information provided in this application is true and correct.

Signature

[insert signature of the applicant or name and signature of authorised officer of the applicant]

Date:

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Schedule 3 – Form of amendment of exemption

Regulation 15

Circular Economy (Waste Reduction and Recycling) Act 2021

Circular Economy (Waste Reduction and Recycling) (Risk, Consequence and Contingency)
Regulations 2023

Application for amendment of exemption

Applicant details

Name:

Postal address:

Street address:

Email:

Contact number:

Australian Company Number (if applicable):

Australian Business Number (if applicable):

Exemption information

Exemption number and date of existing exemption:

Provision(s) in these regulations to which the existing exemption applies:

Reasons for seeking amendment of exemption:

[Provide a description of the reasons why an amendment of the exemption is sought]

Other related information:

[Provide a description of any alternative approaches or risk mitigations proposed to be adopted, if applicable, and how these will meet the purposes of the Act and objectives of the service standard or regulations from which exemption is sought. Attach any supporting evidence]

Consultation:

[Provide a description of any consultation that has been carried out with any person whose interests may be affected by the proposed amendment, if applicable]

Declaration

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The information provided in this application is true and correct.

Signature

[insert signature of the applicant or name and signature of authorised officer of the applicant]

Date:

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Endnotes

Fee units

These Regulations provide for fees by reference to fee units within the meaning of the **Monetary Units Act 2004**.

The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units applicable by the value of a fee unit.

The value of a fee unit for the financial year commencing 1 July 2023 is \$15.90. The amount of the calculated fee may be rounded to the nearest 10 cents.

The value of a fee unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a fee unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.

Penalty units

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the **Sentencing Act 1991**. The amount of the penalty is to be calculated, in accordance with section 7 of the **Monetary Units Act 2004**, by multiplying the number of penalty units applicable by the value of a penalty unit.

The value of a penalty unit for the financial year commencing 1 July 2023 is \$192.31. The amount of the calculated penalty may be rounded to the nearest dollar.

The value of a penalty unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a penalty unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.