

Waste Avoidance and Resource Recovery (e-waste) Regulations 2023

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Schedule 1 — Regulated e-waste

Consultation Draft

Waste Avoidance and Resource Recovery (e-waste) Regulations 2023

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Waste Avoidance and Resource Recovery (e-waste) Regulations 2023*.

2. Commencement

These regulations come into operation as follows —

- (a) Part 1 (other than regulations 3 to 7) — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 1 July 2024.

3. Terms used

In these regulations —

aggregated waste has the meaning given in regulation 4;

designated entity means —

- (a) an e-waste service provider; or
- (b) a landfill operator; or
- (c) a significant business;

e-waste service provider means a person who conducts a business or undertaking that involves or includes the collection or receipt of regulated e-waste for storage, management,

aggregation, treatment, processing, sorting, recycling, transfer or disposal;

landfill operator means a person who occupies premises which constitute or include a landfill site;

landfill site means premises —

- (a) which are used for the purpose of receiving waste; and
- (b) in respect of which the occupier is required to hold a licence within the meaning of the EP Act, whether or not such a licence is in force;

processed materials means materials that are the result of regulated e-waste being transformed, through separation and recycling in accordance with the waste strategy, into something else for resource recovery;

regulated e-waste means waste that falls within one of the categories specified in Schedule 1;

related entity has the meaning given in regulation 5;

residual waste means waste that remains after e-waste has been separated and recycled in accordance with the waste strategy to create —

- (a) processed materials; or
- (b) materials suitable to be used in energy recovery;

significant business means an entity involved in business, industry, trade or commerce that, together with any related entity (if the entity is a body corporate), in relation to any financial year —

- (a) has 200 or more employees at the beginning of the financial year; or
- (b) created, during the immediately preceding financial year, 5 or more tonnes of regulated e-waste.

4. Aggregated waste

For the purposes of these regulations, a reference to aggregated waste is a reference to waste that is subjected to a process

intended to provide for resource recovery by combining the same or similar materials, collected or obtained at any time, as part of a process associated with dealing with waste.

5. Related entities

For the purposes of these regulations, two or more entities are related entities if they are related bodies corporate as defined in the *Corporations Act 2001* (Commonwealth) section 9.

6. Exceptions

These regulations do not apply to the disposal of —

- (a) regulated e-waste that has been unintentionally captured after it has been placed in a kerbside or other similar bin; or
- (b) regulated e-waste that has been mixed with other waste and is not known to be present with that other waste at the time of disposal; or
- (c) residual waste.

7. Other laws about hazardous waste

In the event of an inconsistency between these regulations and another written law that relates to the management or disposal of hazardous waste, the other written law prevails to the extent of the inconsistency.

Part 2 — Prohibition of disposal of e-waste to landfill

8. E-waste not to be disposed to landfill

- (1) An e-waste service provider must not send regulated e-waste to, or leave regulated e-waste at, a landfill site.
Penalty for this subregulation: a fine of \$10 000.
- (2) A significant business must not send regulated e-waste to, or leave regulated e-waste at, a landfill site.
Penalty for this subregulation: a fine of \$10 000.
- (3) It is a defence to a charge for an offence under subregulation (1) or (2) to prove that the e-waste provider or significant business sent the regulated e-waste to, or left the regulated e-waste at, a landfill site in the reasonable expectation that the regulated e-waste would be aggregated for the recovery of processed materials (either at the landfill site or at some other place).
- (4) A landfill operator must not dispose of regulated e-waste that has been accepted at a landfill site to landfill.
Penalty for this subregulation: a fine of \$10 000.
- (5) It is a defence to a charge for an offence under subregulation (4) to prove that the landfill operator —
 - (a) obtained a written declaration, signed by the person leaving waste at the landfill site, that the person had no reason to believe that the waste contained regulated e-waste; or
 - (b) did not know, and could not reasonably have known, that waste accepted at the landfill site contained regulated e-waste.

Part 3 — Specific responsibilities

Division 1 — E-waste service providers

9. Storage, treatment, processing and recycling

- (1) An e-waste service provider must only store regulated e-waste for the purposes of management, aggregation, treatment, processing, sorting, recycling or transfer.
Penalty for this subregulation: a fine of \$10 000.
- (2) An e-waste service provider must not store regulated e-waste for more than 12 months after the month in which it is received by the provider.
Penalty for this subregulation: a fine of \$10 000.
- (3) An e-waste service provider must, during the collection, storage or transportation of regulated e-waste by the provider, prevent anything occurring that would reduce the ability of the regulated e-waste to be treated, processed or recycled.
Penalty for this subregulation: a fine of \$10 000.
- (4) An e-waste service provider must, to the extent that the provider undertakes the separation or recycling of regulated e-waste, maximise recovery of processed materials and minimise the amount of residual waste from the regulated e-waste.
Penalty for this subregulation: a fine of \$10 000.
- (5) It is a defence to a charge for an offence under subregulation (2), (3) or (4) to prove that the e-waste service provider took reasonable steps to avoid the commission of the offence.
- (6) In determining what constitutes reasonable steps for the purposes of subregulation (5), it is relevant to take into account Australian Standard AS 5377:2022 *Management of electrical and electronic equipment for re-use or recycling* (as in force from time to time).

10. Separation of waste

(1) This regulation applies to regulated e-waste collected or received by an e-waste service provider that is mixed with other waste.

(2) The e-waste service provider must separate the regulated e-waste from other waste.

Penalty for this subregulation: a fine of \$10 000.

(3) It is a defence to a charge for an offence under subregulation (2) to prove that the e-waste service provider —

(a) took reasonable steps to avoid the commission of the offence; or

(b) did not know, and could not reasonably have known, that regulated e-waste was mixed with other waste.

11. Records

(1) This regulation applies to an e-waste service provider required to hold a licence under the EP Act Part V Division 3 in respect of premises used for the purpose of storing, treating or processing regulated e-waste, whether or not a licence is in force.

(2) The e-waste service provider must record the following information for regulated e-waste the provider collects or accepts as part of the provider's business or undertaking —

(a) the date of collection or receipt of the regulated e-waste;

(b) in the case of regulated e-waste that has been collected from another place — the name and address of the premises from which the regulated e-waste was collected;

(c) a description of the regulated e-waste using the categories of regulated e-waste in Column 1 in the table in Schedule 1;

- (d) the quantity of the regulated e-waste.

Penalty for this subregulation: a fine of \$10 000.

- (3) The e-waste service provider must record the following information for each immediately preceding financial year in connection with the provider's business or undertaking —
 - (a) the total amount of regulated e-waste collected or received by the provider;
 - (b) the types of separation and recycling of regulated e-waste conducted by the provider and the quantity of regulated e-waste subject to each process;
 - (c) the quantity of the processed materials and residual waste produced by the provider;
 - (d) the quantity of regulated e-waste transferred to another person by the provider (recording the total amount for each person).

Penalty for this subregulation: a fine of \$10 000.

- (4) The e-waste service provider must, not later than 1 October in each year, lodge with the CEO a return containing the information required to be recorded under subregulation (3) for the immediately preceding financial year.

Penalty for this subregulation: a fine of \$10 000.

- (5) The return must be in a form approved by the CEO.

Division 2 — Significant businesses

12. Storage and transfer requirements

- (1) A significant business must not store regulated e-waste resulting from its activities for more than 12 months after the month in which it becomes waste.

Penalty for this subregulation: a fine of \$10 000.

- (2) A significant business must keep regulated e-waste resulting from its activities separate from other waste.
Penalty for this subregulation: a fine of \$10 000.
- (3) A significant business must, during the storage or transportation of regulated e-waste resulting from its activities, prevent anything occurring that would reduce the ability of the regulated e-waste to be treated, processed or recycled.
Penalty for this subregulation: a fine of \$10 000.
- (4) A significant business must transfer regulated e-waste resulting from its activities to an e-waste service provider.
Penalty for this subregulation: a fine of \$10 000.
- (5) It is a defence to a charge for an offence under subregulation (1), (2) or (3) to prove that the significant business took reasonable steps to avoid the commission of the offence.
- (6) In determining what constitutes reasonable steps for the purposes of subregulation (5), it is relevant to take into account Australian Standard AS 5377:2022 *Management of electrical and electronic equipment for re-use or recycling* (as in force from time to time).

13. Records

A significant business must, not later than 31 July in each year, record the following information for each immediately preceding financial year in connection with the significant business's business or undertaking —

- (a) a description of the regulated e-waste resulting from its activities using the categories of regulated e-waste in Column 1 in the table in Schedule 1;
- (b) the quantity of regulated e-waste resulting from its activities;

- (c) the name and business address of any e-waste service provider to which regulated e-waste has been transferred;
- (d) the quantity of regulated e-waste transferred to each e-waste service provider (recording the total amount for each e-waste service provider).

Penalty: a fine of \$10 000.

Division 3 — Landfill operators

14. Separation of waste

- (1) This regulation applies to regulated e-waste received by a landfill operator that is mixed with other waste.
- (2) The landfill operator must separate the regulated e-waste from other waste.

Penalty for this subregulation: a fine of \$10 000.

- (3) It is a defence to a charge for an offence under subregulation (2) to prove that the landfill operator —
 - (a) took reasonable steps to avoid the commission of the offence; or
 - (b) did not know, and could not reasonably have known, that regulated e-waste was mixed with other waste.

Division 4 — Record retention

15. Record retention

- (1) An e-waste service provider or significant business required to record information under this Part must retain the record for at least 5 years from the date on which it was created.

Penalty for this subregulation: a fine of \$10 000.

- (2) An e-waste service provider or significant business required to record information under this Part must provide the CEO with a copy of the record if requested to do so by the CEO within a period (of at least 28 days) specified by the CEO.

Penalty for this subregulation: a fine of \$10 000.

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Part 4 — Exemptions

16. Exemption from requirements of regulations

- (1) A designated entity may apply to the CEO for an exemption from a requirement imposed on the designated entity under these regulations because of extraordinary circumstances.
- (2) An application must —
 - (a) be in a form approved by the CEO; and
 - (b) include the reasons for the application; and
 - (c) include, or be accompanied by, any other information specified by the CEO.
- (3) The CEO may, on the receipt of an application and any information required under subregulation (2), approve the application if satisfied that —
 - (a) extraordinary circumstances exist; and
 - (b) the circumstances justify an exemption.
- (4) An exemption is subject to any conditions specified by the CEO when approving the application.
- (5) An exemption may be for a period determined by the CEO (and the CEO may extend the period from time to time).
- (6) If the CEO decides to approve an application under this regulation, the CEO must, as soon as practicable, give the designated entity a notice of the decision.
- (7) If the CEO decides not to approve an application under this regulation, the CEO must, as soon as practicable, give the designated entity a notice of the decision stating the reasons for the decision.

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17. Review

A designated entity may apply to the State Administrative Tribunal for a review of a decision of the CEO not to approve an application for an exemption under regulation 16.

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Schedule 1 — Regulated e-waste

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Category of regulated e-waste	Type of waste
Screens, information technology and telecommunications	<p>Television screens and monitor screens, including —</p> <ul style="list-style-type: none"> (a) cathode ray tube televisions and monitors; (b) flat display panel televisions; (c) flat display panel monitors <p>Computers, including —</p> <ul style="list-style-type: none"> (a) desktop computers; (b) laptops and tablets <p>Machines that perform the functions of printing, copying, facsimile transmission or projection</p> <p>Information technology equipment, including —</p> <ul style="list-style-type: none"> (a) networking equipment such as servers, routers, signal amplifiers and duplicators; (b) web cameras; (c) accounting machines; (d) cash registers; (e) postage franking machines, ticket issuing machines and other similar machines <p>Computer peripherals, including —</p> <ul style="list-style-type: none"> (a) internal and external devices, and cables and cords, that support or perform the functions of —

Category of regulated e-waste	Type of waste
	<ul style="list-style-type: none"> (i) data input, output or transfer; (ii) data storage; (iii) processing (including central and graphics processing units; <p>(b) devices that allow input to control computers such as —</p> <ul style="list-style-type: none"> (i) keyboards; (ii) mice; (iii) joysticks and gamepads; (iv) controllers; <p>(c) devices, cables and cords that provide power to, or charge, computers;</p> <p>(d) typewriters, word-processing machines, electronic calculators and other devices that perform functions typically able to be performed by computers</p> <p>Telecommunications equipment, including —</p> <ul style="list-style-type: none"> (a) mobile telephones and related batteries, chargers and accessories; (b) pagers; (c) base stations for the transmission or reception of voice, images or other data; (d) transmission-receive apparatus for televisions and radios;

Category of regulated e-waste	Type of waste
	<ul style="list-style-type: none"> (e) cordless telephones and telephone sets; (f) telephone answering machines; (g) telephonic or telegraphic switching apparatus
Lighting and lamps	<p>Compact fluorescent lamps</p> <p>Straight tube fluorescent lamps</p> <p>The following lamps commonly known as <i>Special Lamps</i> —</p> <ul style="list-style-type: none"> (a) mercury or sodium vapour lamps; (b) high and low pressure sodium lamps; (c) hot cathode fluorescent lamps; (d) other lamps used by professionals or specialists, or in similar work <p>Light emitting diode (LED) lighting products</p> <p>Portable lights and lamps</p> <p>Household luminaires, including —</p> <ul style="list-style-type: none"> (a) ceiling lights (including chandeliers), wall lights and floor lights; (b) electric table, desk, bedside and floor lamps; (c) household incandescent light globes; (d) lighting sets of Christmas trees and displays;

Category of regulated e-waste	Type of waste
	(e) bicycle lighting and signalling equipment
Large appliances when used in a home, office or professional environment	Dishwashing machines Ovens, furnaces, extraction equipment, rangehoods and other similar cooking equipment Washing machines and driers, or a combination of both Large dispensers such as non-cooled vending machines, commercial coffee machines, coffee vending machines, ticket vending machines and other similar machines
Batteries	All batteries
Temperature exchange equipment when used in a home, office or professional environment	Compression-type refrigerators Absorption-type refrigerators Freezers (chest type or upright type) Airconditioners (installed or portable) Other cooling systems or equipment (including dehumidifiers and heat pump driers) Cooled dispensers for food or drinks Heating and ventilation equipment
Medical devices	Medical devices that would not, because of their shape or size, fit into a container measuring 50 cm x 50 cm x 50 cm

Clerk of the Executive Council

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