

2017

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Transport and City Services)

Waste Management and Resource Recovery Amendment Bill 2017

Contents

| | Page |
|---|------|
| 1 Name of Act | 2 |
| 2 Commencement | 2 |
| 3 Legislation amended | 2 |
| 4 Meaning of <i>waste management business</i> Section 12, definition of <i>waste management business</i> , paragraph (a) | 2 |
| 5 Decision about application for licence Section 22 (2) | 3 |
| 6 Term of licence Section 29 (b) (iii) | 3 |
| 7 Decision about application for registration Section 34 (1) (a) | 3 |

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Contents

| | Page | |
|----|--|----|
| 8 | New section 34A | 3 |
| 9 | Term of registration Section 42 (b) (iii) | 4 |
| 10 | New part 10A | 5 |
| 11 | Direction to stop contravening Act etc Section 70 (1) and (2) | 29 |
| 12 | Regulation-making power Section 128 (2), new paragraph (c) | 30 |
| 13 | Reviewable decisions Schedule 1, new item 5A | 30 |
| 14 | Schedule 1, new items 8A to 8C | 30 |
| 15 | Dictionary, new definitions | 30 |
| 16 | Dictionary, definition of <i>corresponding law</i> | 31 |
| 17 | Dictionary, new definitions | 31 |

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(Minister for Transport and City Services)

Waste Management and Resource Recovery Amendment Bill 2017

A Bill for

An Act to amend the *Waste Management and Resource Recovery Act 2016*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

- 1 **1 Name of Act**
- 2 This Act is the *Waste Management and Resource Recovery*
3 *Amendment Act 2017*.
- 4 **2 Commencement**
- 5 (1) This Act commences on a day fixed by the Minister by written
6 notice.
- 7 *Note 1* The naming and commencement provisions automatically commence on
8 the notification day (see [Legislation Act](#), s 75 (1)).
- 9 *Note 2* A single day or time may be fixed, or different days or times may be
10 fixed, for the commencement of different provisions (see [Legislation](#)
11 [Act](#), s 77 (1)).
- 12 (2) If this Act has not commenced within 12 months beginning on its
13 notification day, it automatically commences on the first day after
14 that period.
- 15 (3) The [Legislation Act](#), section 79 (Automatic commencement of
16 postponed law) does not apply to this Act.
- 17 **3 Legislation amended**
- 18 This Act amends the *Waste Management and Resource Recovery*
19 *Act 2016*.
- 20 **4 Meaning of *waste management business***
21 **Section 12, definition of *waste management business*,**
22 **paragraph (a)**
- 23 *omit*
- 24 dominant

1 **5 Decision about application for licence**
2 **Section 22 (2)**

3 *omit*
4 , before the waste manager approves a licence

5 **6 Term of licence**
6 **Section 29 (b) (iii)**

7 *substitute*
8 (iii) if the licensee fails to pay the fee for the licence by the
9 day (the *payment day*) the fee for the licence next
10 becomes payable—the day after the payment day;
11 (iv) the day stated in the licence.

12 **7 Decision about application for registration**
13 **Section 34 (1) (a)**

14 *omit*
15 subject to a condition prescribed by regulation

16 **8 New section 34A**

17 *insert*

18 **34A Registration conditions**

19 A waste transporter registration is subject to—
20 (a) a condition that the registered waste transporter must comply
21 with this Act; and

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

3 **Examples—par (b)**

4 1 limiting the kind and quantity of waste to be transported

5 2 requiring a kind of waste to be transported in a particular way

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

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

10 *Note 3* An example is part of the Act, is not exhaustive and may extend, but
11 does not limit, the meaning of the provision in which it appears (see
12 [Legislation Act](#), s 126 and s 132).

13 **9 Term of registration**
14 **Section 42 (b) (iii)**

15 *substitute*

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

20 (iv) the day stated in the registration.

10 **New part 10A***insert***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 holds a waste facility licence and 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.

- 1 **container**—see section 64E.
- 2 **container approval** means an approval in force under—
- 3 (a) section 64V; or
- 4 (b) a corresponding law of a State.
- 5 **corresponding law**, of a State, means a law of the State that is
- 6 prescribed by regulation for this part.
- 7 **material recovery facility operator** means a waste management
- 8 business that—
- 9 (a) processes waste collected as part of a waste collection service;
- 10 and
- 11 (b) holds a waste facility licence allowing the processing of waste
- 12 (otherwise than by thermal treatment) at a waste facility.
- 13 **network arrangement**—see section 64J (1) (b).
- 14 **network operator** means a person with whom the Minister enters
- 15 into a network operator agreement.
- 16 **network operator agreement** means a scheme administration
- 17 agreement under section 64H (2) (b).
- 18 **refund amount**—see section 64F.
- 19 **refund marking**—see section 64G.
- 20 **scheme** means the container deposit scheme established under this
- 21 part.
- 22 **scheme administration agreement**—see section 64H (1).
- 23 **scheme arrangement** means—
- 24 (a) a supply arrangement; or
- 25 (b) a network arrangement; or

- 1 (c) a collection point arrangement.
- 2 **scheme coordinator** means the person with whom the Minister
3 enters into the scheme coordinator agreement.
- 4 **scheme coordinator agreement** means the scheme administration
5 agreement under section 64H (2) (a).
- 6 **scheme participant** means—
- 7 (a) the scheme coordinator; or
8 (b) a network operator; or
9 (c) a supplier who has entered into a supply arrangement with the
10 scheme coordinator; or
11 (d) a collection point operator.
- 12 **supplier**—
- 13 (a) means an entity that—
14 (i) manufactures a container; or
15 (ii) imports a container from a State or another country; and
16 (b) carries on a business that is, or includes, the supply of a
17 beverage in the container; but
18 (c) does not include a person prescribed by regulation not to be a
19 supplier.
- 20 **supply** means provide, by way of sale or otherwise, in the course of
21 carrying on a business.
- 22 **supply arrangement**—see section 64J (1) (a).

1 **64C Meaning of *beverage*—pt 10A**

2 In this part:

3 *beverage* means—

- 4 (a) a liquid intended for human consumption by drinking; but
5 (b) does not include a liquid prescribed by regulation not to be a
6 beverage.

7 **64D Meaning of *collection point*—pt 10A**

8 In this part:

9 *collection point*—

- 10 (a) means a waste facility used for the collection and handling of
11 containers delivered to the facility for payment of a refund
12 amount; but
13 (b) does not include a reverse vending machine.

14 **64E Meaning of *container*—pt 10A**

15 In this part:

16 *container*—

- 17 (a) means—
18 (i) a sealable vessel or receptacle designed to contain a
19 beverage for transport or storage before the beverage is
20 sold or delivered for consumption; or
21 (ii) anything else prescribed by regulation to be a container;
22 but
23 (b) does not include anything prescribed by regulation not to be a
24 container.

1 **64F** **Meaning of *refund amount*—pt 10A**

2 In this part:

3 *refund amount* means an amount prescribed by regulation as the
4 refund amount.

5 **64G** **Meaning of *refund marking*—pt 10A**

6 In this part:

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

9 **Division 10A.2** **Scheme administration**

10 **64H** **Scheme administration agreements**

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

14 (2) A scheme administration agreement may be—

15 (a) the scheme coordinator agreement; or

16 (b) a network operator agreement.

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

19 *Note* A fee may be determined under s 126 for an application.

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

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

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

- 1 (c) for a network operator agreement—is a suitable person to be a
2 network operator.
- 3 (5) A regulation may prescribe suitability requirements for a person to
4 be—
- 5 (a) the scheme coordinator; or
6 (b) a network operator.
- 7 (6) Subsection (5) does not limit the matters the Minister may consider
8 in deciding a person’s suitability under subsection (4) (b) or (c).

9 **64I Amending and ending scheme administration**
10 **agreements**

- 11 (1) A scheme administration agreement may be amended or ended by
12 agreement, in writing, between the Minister and the scheme
13 participant.
- 14 (2) The Minister may, by written notice given to the scheme participant,
15 amend or end a scheme administration agreement without the
16 consent of the scheme participant—
- 17 (a) if satisfied that the scheme participant has failed to meet a
18 performance target under the agreement; or
19 (b) in any other circumstance allowed by the agreement.
- 20 (3) Without limiting subsection (2), the Minister may, without the
21 consent of the scheme participant, amend a scheme administration
22 agreement to include in the agreement a performance target or other
23 matter required by this part or prescribed by regulation to be
24 included in the agreement.
- 25 (4) The scheme participant is not entitled to any compensation as a
26 result of the amendment or end of a scheme administration
27 agreement under subsection (2) (a) or (3).

- 1 (5) A provision of a scheme administration agreement is void to the
2 extent to which it purports to exclude, limit or modify the operation
3 of this section.
- 4 (6) A regulation may make further provision for amending or ending a
5 scheme administration agreement.
- 6 (7) In this section:
- 7 *scheme participant*, for a scheme administration agreement, means
8 the scheme coordinator or a network operator who is a party to the
9 agreement.

10 **Division 10A.3 Scheme coordinator agreement**

11 **64J Content of scheme coordinator agreement**

- 12 (1) The scheme coordinator agreement must include provisions
13 requiring the scheme coordinator to enter into and give effect to the
14 following:
- 15 (a) an arrangement with a supplier (a *supply arrangement*)
16 requiring the supplier to pay to the scheme coordinator
17 contributions towards the cost of the management,
18 administration and operation of the scheme;
- 19 (b) an arrangement with a network operator (a *network*
20 *arrangement*) in relation to the establishment, administration
21 and operation of collection points requiring the scheme
22 coordinator to pay to the operator refund amounts and
23 associated administration and handling costs for containers that
24 are collected at the collection points (and for which a collection
25 point operator is required to pay a refund amount under
26 section 64Y).

- 1 (2) The scheme coordinator agreement must include any other provision
2 the Minister considers necessary to ensure—
- 3 (a) each scheme arrangement required under the agreement sets
4 out a methodology for determining the amounts payable under
5 the arrangement; and
- 6 (b) the scheme coordinator does not act unfairly, or unreasonably
7 discriminate, against or in favour of a scheme participant in
8 negotiating, entering into, performing obligations under or
9 enforcing a scheme arrangement.
- 10 (3) The scheme coordinator agreement may provide for any other
11 matter the Minister considers appropriate for the management,
12 administration or operation of the scheme.
- 13 (4) A regulation may make provision in relation to—
- 14 (a) performance targets (including by reference to any stated
15 network of collection points or area of operation) and any other
16 matter to be included in the scheme coordinator agreement;
17 and
- 18 (b) the content of scheme arrangements under the scheme
19 coordinator agreement.
- 20 (5) The scheme coordinator agreement may contain provisions relating
21 to the exercise by the scheme coordinator of similar functions under
22 the law of a State relating to container deposit schemes.
- 23 (6) Nothing in this section or any other provision of this division
24 (except section 64M (Term of scheme coordinator agreement))
25 limits the matters for which the scheme coordinator agreement may
26 provide.

1 **64K Approval of network arrangements**

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

5 *Note 1* If a form is approved under s 127 for this provision, the form must be
6 used.

7 *Note 2* A fee may be determined under s 126 for this provision.

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

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

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

12 **64L Payment of refund amounts to material recovery facility**
13 **operators**

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

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

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

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

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

- 1 (c) any other circumstances in which a processing refund is
2 payable.
- 3 (d) the way in which a claim for a processing refund must be made
4 by a material recovery facility operator;
- 5 (e) the assessment of claims for processing refunds;
- 6 (f) reporting and keeping records;
- 7 (g) a process for resolving disputes about processing refunds.
- 8 (4) A processing refund protocol is a disallowable instrument.
- 9 *Note* A disallowable instrument must be notified, and presented to the
10 Legislative Assembly, under the [Legislation Act](#).
- 11 (5) A processing refund is not payable to a material recovery facility
12 operator unless a processing refund protocol is in force in relation to
13 the processing refund.
- 14 (6) A regulation may prohibit—
- 15 (a) the landfill disposal of a container in relation to which a claim
16 for a processing refund has been made by a material recovery
17 facility operator; and
- 18 (b) a material recovery facility operator making a claim for a
19 processing refund in relation to a container that has been
20 disposed of to landfill.

21 **64M Term of scheme coordinator agreement**

- 22 (1) The scheme coordinator agreement must not be for longer than
23 7 years.
- 24 (2) The Minister may, with the agreement of the scheme coordinator,
25 extend the agreement for a further period of not longer than 3 years.

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

2 **Example**

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

7 *Note* An example is part of the Act, is not exhaustive and may extend, but
8 does not limit, the meaning of the provision in which it appears (see
9 [Legislation Act](#), s 126 and s 132).

10 **Division 10A.4 Network operator agreements**

11 **64N Content of network operator agreements**

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

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

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

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

- 1 (3) A network operator agreement may provide for any other matters
2 the Minister considers appropriate for the management,
3 administration or operation of the scheme.
- 4 (4) A regulation may make provision in relation to—
- 5 (a) performance targets (including by reference to any stated
6 network of collection points or area of operation) and any other
7 matter to be included in a network operator agreement; and
- 8 (b) the content of collection point arrangements under a network
9 operator agreement.
- 10 (5) Nothing in this section or any other provision of this division limits
11 the matters for which a network operator agreement may provide.

12 **640 Approval of collection point arrangements**

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

16 *Note 1* If a form is approved under s 127 for this provision, the form must be
17 used.

18 *Note 2* A fee may be determined under s 126 for this provision.

- 19 (2) A regulation may make provision in relation to the following:
- 20 (a) an application for approval of a collection point arrangement;
- 21 (b) the approval, amendment or revocation of an approval of a
22 collection point arrangement.

1 Division 10A.5 Scheme compliance**2 64P Inconsistent provisions void**

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

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

6 (b) a regulation made under section 64J.

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

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

10 (b) a regulation made under section 64N.

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

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

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

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

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

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

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

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

26 (c) a regulation made under section 64N.

1 **64Q Penalties for contravention**

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

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

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

11 (4) In this section:

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

14 **64R Monitoring and enforcement of compliance**

15 (1) A scheme administration agreement may—

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

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

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

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

- 1 (2) If a scheme administration agreement provides, or a scheme
2 arrangement provides (or is required under a scheme administration
3 agreement to provide), for the exercise of functions under part 13 in
4 relation to the agreement or arrangement, part 13 extends to the
5 exercise of functions by the waste manager (and by authorised
6 people appointed by the director-general) for—
- 7 (a) deciding whether there has been compliance with, or a
8 contravention of, the agreement or arrangement (or any
9 condition of an approval granted by the waste manager in
10 relation to the arrangement); and
- 11 (b) obtaining information or records about the monitoring or audit
12 of the activities of parties to the agreement or arrangement in
13 relation to the performance of their obligations under the
14 agreement or arrangement.
- 15 (3) Part 13 applies as if the responsibilities and functions of the waste
16 manager under this Act included the matters mentioned in
17 subsection (2).
- 18 (4) This section does not affect the exercise of functions under part 13
19 in relation to this Act that are authorised to be exercised without
20 reliance on this section.

21 **64S Performance audit**

- 22 (1) At the request of the Minister, the waste manager must conduct a
23 performance audit of the activities of the scheme coordinator or any
24 network operator in relation to the performance of obligations under
25 a scheme administration agreement.
- 26 (2) At the end of the performance audit, the waste manager must give
27 the Minister a written report.

- 1 (3) If the waste manager is of the opinion that the scheme coordinator
2 or a network operator is not complying with the scheme
3 administration agreement, the waste manager may make
4 recommendations to the Minister on appropriate remedial action to
5 be taken.
- 6 (4) A regulation may make provision in relation to performance audits
7 under this section.

8 **64T Register of approved containers and collection points**

- 9 (1) The scheme coordinator must maintain a register of approved
10 containers and collection points.
- 11 (2) The register must contain the following details for each approved
12 container:
- 13 (a) a description of the container, including the following:
- 14 (i) the kind of container;
- 15 (ii) its size, by volume;
- 16 (iii) the material it is made of;
- 17 (b) the manufacturer;
- 18 (c) the barcode;
- 19 (d) the date the container approval for the container was given;
- 20 (e) if the container approval for the container was given under a
21 corresponding law of a State—the State;
- 22 (f) if the container approval for the container has ended—the date
23 the approval ended;
- 24 (g) any conditions of the approval.

- 1 (3) The register must include the following in relation to each collection
2 point:
- 3 (a) the location;
- 4 (b) the opening hours;
- 5 (c) the name of the collection point operator;
- 6 (d) the kind of containers that can be redeemed there.
- 7 (4) The register may contain anything else prescribed by regulation.
- 8 (5) The register—
- 9 (a) may be kept in any form, including electronically, that the
10 scheme coordinator decides; but
- 11 (b) must be accessible by the public and searchable.

12 **64U Reports by scheme coordinator**

- 13 (1) The scheme coordinator must, within 90 days after the end of each
14 financial year, give the Minister a written report about the
15 following:
- 16 (a) the performance of the scheme coordinator in relation to the
17 performance targets under the scheme coordinator agreement;
- 18 (b) the amounts charged to suppliers under supply arrangements;
- 19 (c) any other matter prescribed by regulation.
- 20 (2) The Minister must present the report to the Legislative Assembly
21 within 3 months after the day the Minister receives the report.

1 **Division 10A.6 Supply and collection of containers**

2 **Subdivision 10A.6.1 Supply of approved containers**

3 **64V Container approvals**

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

6 (2) An application must—

7 (a) be in writing; and

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

10 *Note* If a form is approved under s 127 for this provision, the form must be
11 used.

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

14 (a) approve the application; or

15 (b) refuse the application.

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

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

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

23 (c) a ground prescribed by regulation.

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

- 1 (6) A container approval may—
- 2 (a) be limited to containers supplied by the person to whom the
- 3 approval is granted; and
- 4 (b) include—
- 5 (i) conditions prescribed by regulation; and
- 6 (ii) any other conditions not inconsistent with a condition
- 7 under subparagraph (i) that the waste manager imposes
- 8 on the applicant.
- 9 (7) The waste manager may suspend or revoke a container approval on
- 10 any grounds prescribed by regulation.
- 11 (8) A person commits an offence if—
- 12 (a) the person holds a container approval; and
- 13 (b) the person fails to comply with a condition of the approval.
- 14 Maximum penalty: 50 penalty units.
- 15 (9) Strict liability applies to subsection (8) (a) and (b).

16 **64W Requirement for supply arrangement with scheme**

17 **coordinator and container approval**

- 18 (1) A supplier commits an offence if—
- 19 (a) the supplier supplies or offers to supply a beverage in a
- 20 container to another person; and
- 21 (b) the following are not in force:
- 22 (i) a supply arrangement between the supplier and the
- 23 scheme coordinator for the class of container to which the
- 24 container belongs;

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

3 Maximum penalty: 1 000 penalty units.

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

5 **64X Requirement for refund markings on containers**

- 6 (1) A supplier commits an offence if—

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

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

10 Maximum penalty: 1 000 penalty units.

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

12 **Subdivision 10A.6.2 Collection of containers**

13 **64Y Refund amounts payable by collection point operators**

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

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

17 (b) the container bears a refund marking; and

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

20 (d) the collection point operator does not—

21 (i) accept the container from the person; or

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

24 Maximum penalty: 50 penalty units.

- 1 (2) Subsection (1) does not apply—
- 2 (a) if the collection point operator reasonably believes that—
- 3 (i) the container was not acquired in the ACT or in a State in
- 4 which a corresponding law is in force; or
- 5 (ii) the container was acquired before the commencement of
- 6 this part; or
- 7 (iii) a refund amount has previously been paid for the
- 8 container at any collection point; or
- 9 (iv) the container has previously been processed by a material
- 10 recovery facility operator for reuse or recycling and the
- 11 scheme coordinator has made, or is required to make, a
- 12 payment in relation to the container to that operator under
- 13 the scheme coordinator agreement; or
- 14 (b) if the person has refused to comply with a requirement of the
- 15 collection point operator under section 64Z; or
- 16 (c) in any other circumstance prescribed by regulation.
- 17 *Note* The defendant has an evidential burden in relation to the matters
- 18 mentioned in s (2) (see [Criminal Code](#), s 58).
- 19 (3) A refund amount that is payable under this section must be paid at
- 20 the time the collection point operator accepts the container, or any
- 21 later time prescribed by regulation.

22 **64Z Refund declarations and proof of identity**

- 23 (1) A collection point operator may require a person who presents a
- 24 container to a collection point to claim a refund amount to give the
- 25 operator a refund declaration.
- 26 (2) A collection point operator may refuse to pay a person a refund
- 27 amount if the operator is not satisfied about the person's identity.

- 1 (3) A collection point operator must not pay a person a refund amount
2 in either of the following circumstances unless the person has given
3 the operator a refund declaration and proof of the person's identity:
- 4 (a) if the number of containers for which the person is claiming a
5 refund amount at the collection point is more than the number
6 prescribed by regulation;
- 7 (b) if the operator knows, or believes on reasonable grounds, that
8 the total number of containers presented to the collection point
9 by the person, and anyone else acting on the person's behalf,
10 within the period prescribed by regulation for claiming a
11 refund is more than the number prescribed by regulation.
- 12 (4) A collection point operator must keep for at least 3 years any
13 records prescribed by regulation in relation to—
- 14 (a) refunds paid by the operator; and
15 (b) proof of identity given to the operator.
- 16 (5) A collection point operator commits an offence if the collection
17 point operator fails to comply with a requirement under
18 subsection (4).
- 19 Maximum penalty: 40 penalty units.
- 20 (6) An offence against subsection (5) is a strict liability offence.
- 21 (7) In this section:
- 22 *refund declaration* means a declaration containing the information
23 prescribed by regulation.

24 **64ZA Offence—claiming refund for containers not subject to**
25 **scheme**

- 26 (1) A person commits an offence if—
- 27 (a) the person presents a container to a collection point to claim a
28 refund; and

- 1 (b) the person knows, or ought reasonably to know that—
- 2 (i) the container was not acquired in the Territory or in a
- 3 State in which a corresponding law is in force; or
- 4 (ii) the container was acquired before the commencement of
- 5 this part; or
- 6 (iii) a refund amount has previously been paid for the
- 7 container at a collection point; or
- 8 (iv) the container has previously been processed by a material
- 9 recovery facility operator for reuse or recycling and the
- 10 scheme coordinator has made, or is required to make, a
- 11 payment in relation to the container to the operator under
- 12 the scheme coordinator agreement.

13 Maximum penalty: 10 penalty units.

- 14 (2) A scheme participant commits an offence if—
- 15 (a) the scheme participant gives an invoice or other statement to a
- 16 scheme administrator; and
- 17 (b) the invoice or other statement claims a refund amount payable
- 18 by the scheme administrator to the scheme participant for a
- 19 container under a scheme arrangement; and
- 20 (c) the scheme participant knows, or ought reasonably to know
- 21 that—
- 22 (i) the container was not acquired in the ACT or in a State in
- 23 which a corresponding law is in force; or
- 24 (ii) the container was acquired before the commencement of
- 25 this part; or
- 26 (iii) a refund amount has been paid for the container more
- 27 than once at any 1 or more collection points; or

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

6 Maximum penalty: 1 000 penalty units.

7 (3) In this section:

8 *scheme administrator* means the scheme coordinator or a network
9 operator.

10 *scheme participant* means a network operator or collection point
11 operator.

12 **Division 10A.7 Miscellaneous**

13 **64ZB Authorisations for Competition and Consumer Act 2010** 14 **(Cwlth)**

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

- 17 (a) everything done under this part; and
18 (b) all scheme administration agreements and scheme
19 arrangements made under this part; and
20 (c) everything done under a scheme administration agreement or a
21 scheme arrangement authorised by this part.

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

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

1 **64ZC Review of part**

- 2 (1) The Minister must review the operation of this part as soon as
3 practicable after the end of its 5th year of operation.
- 4 (2) The Minister must present a report of the review to the Legislative
5 Assembly within 3 months after the day the review is started.
- 6 (3) This section expires 6 years after the day it commences.

7 **11 Direction to stop contravening Act etc**
8 **Section 70 (1) and (2)**

9 *substitute*

- 10 (1) This section applies if the waste manager believes on reasonable
11 grounds that a person is—
- 12 (a) contravening this Act; or
- 13 (b) contravening a condition of a licence; or
- 14 (c) contravening a condition of registration as a waste transporter;
15 or
- 16 (d) failing to comply with a requirement of a scheme
17 administration agreement.

18 *Note* A reference to an Act includes a reference to the statutory instruments
19 made or in force under the Act, including any regulation (see
20 [Legislation Act](#), s 104).

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

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

1 **12 Regulation-making power**
 2 **Section 128 (2), new paragraph (c)**

3 *insert*
 4 (c) make provision in relation to the content of scheme
 5 arrangements made under part 10A.

6 **13 Reviewable decisions**
 7 **Schedule 1, new item 5A**

8 *insert*

| | | | | |
|----|---------|----------------------------------|----------------------------|---------------|
| 5A | 34A (b) | impose condition on registration | applicant for registration | waste manager |
|----|---------|----------------------------------|----------------------------|---------------|

9 **14 Schedule 1, new items 8A to 8C**

10 *insert*

| | | | | |
|----|------------------|---|-----------|---------------|
| 8A | 64V (3) (b) | refuse to grant container approval | applicant | waste manager |
| 8B | 64V (6) (b) (ii) | impose conditions on container approval | supplier | waste manager |
| 8C | 64V (7) | suspend or revoke container approval | supplier | waste manager |

11 **15 Dictionary, new definitions**

12 *insert*
 13 ***approved container*** means a container, or a container within a class
 14 of containers, that is the subject of a container approval.
 15 ***beverage***, for part 10A (Container deposit scheme)—see
 16 section 64C.
 17 ***collection point***, for part 10A (Container deposit scheme)—see
 18 section 64D.

1 *collection point arrangement*, for part 10A (Container deposit
2 scheme)—see section 64N (1).

3 *collection point operator*, for a collection point, for part 10A
4 (Container deposit scheme)—see section 64B.

5 *container*, for part 10A (Container deposit scheme)—see
6 section 64E.

7 *container approval*, for part 10A (Container deposit scheme)—see
8 section 64B.

9 **16 Dictionary, definition of *corresponding law***

10 *substitute*

11 *corresponding law*, of a State, means—

12 (a) for this Act—a law of the State about the registration or
13 licensing of people who carry out waste activities; and

14 (b) for part 10A (Container deposit scheme)—see section 64B.

15 *Note* *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

16 **17 Dictionary, new definitions**

17 *insert*

18 *material recovery facility operator*, for part 10A (Container deposit
19 scheme)—see section 64B.

20 *network arrangement*, for part 10A (Container deposit scheme)—
21 see section 64J (1) (b).

22 *network operator*, for part 10A (Container deposit scheme)—see
23 section 64B.

24 *network operator agreement*, for part 10A (Container deposit
25 scheme)—see section 64B.

- 1 **refund amount**, for part 10A (Container deposit scheme)—see
2 section 64F.
- 3 **refund marking**, for part 10A (Container deposit scheme)—see
4 section 64G.
- 5 **scheme**, for part 10A (Container deposit scheme)—see section 64B.
- 6 **scheme administration agreement**, for part 10A (Container deposit
7 scheme)—see section 64H (1).
- 8 **scheme arrangement**, for part 10A (Container deposit scheme)—
9 see section 64B.
- 10 **scheme coordinator**, for part 10A (Container deposit scheme)—see
11 section 64B.
- 12 **scheme coordinator agreement**, for part 10A (Container deposit
13 scheme)—see section 64B.
- 14 **scheme participant**, for part 10A (Container deposit scheme)—see
15 section 64B.
- 16 **supplier**, for part 10A (Container deposit scheme)—see
17 section 64B.
- 18 **supply**, for part 10A (Container deposit scheme)—see section 64B.
- 19 **supply arrangement**, for part 10A (Container deposit scheme)—see
20 section 64J (1) (a).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 21 September 2017.

2 Notification

Notified under the [Legislation Act](#) on 2017.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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