

South Australia

Environment Protection (Variation of Act, Schedule 1) (Waste Reform) Regulations 2019

under the *Environment Protection Act 1993*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Environment Protection (Variation of Act, Schedule 1) (Waste Reform) Regulations 2019*.

2—Commencement

These regulations will come into operation on 1 June 2019.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of a specified Act varies the Act so specified.

Part 2—Variation of *Environment Protection Act 1993*

4—Variation of Schedule 1 of Act—Prescribed activities of environmental significance

- (1) Schedule 1—before Part A insert:

Part AA—Interpretation

A1—Interpretation

- (1) In this Schedule, unless the contrary intention appears—
- community wastewater management system* or *CWMS* means a system for the collection and management of wastewater generated in a town, regional area or other community;
- contaminated stormwater* has the same meaning as in the *Environment Protection (Water Quality) Policy 2015*;
- domestic waste* means waste produced in the course of a domestic activity;
- e-waste* means waste comprised of electrical or electronic equipment;
- human wastewater* means human waste either alone or in combination with water;
- liquid waste* means waste classified as liquid waste in accordance with the assessment process set out in the guideline *Liquid waste classification test*, re-issued by the Authority in September 2003;
- listed waste* means a substance or thing listed in Part B of this Schedule;
- medical practice* includes the practice of pathology and the operation of an immunisation clinic;
- medical sharps* means needles, syringes with needles, surgical instruments or any other articles or devices that have been discarded in the course of medical, dental or veterinary practice or research and have sharp edges, protuberances or points capable of causing a penetrating injury to a person who comes into contact with them;
- medical waste* means—
- (a) medical sharps; or
 - (b) human tissue, bone, organ, body part or foetus; or
 - (c) a vessel, bag or tube containing a liquid body substance; or
 - (d) an animal carcass discarded in the course of veterinary or medical practice or research; or
 - (e) a specimen or culture discarded in the course of medical, dental or veterinary practice or research and any material that has come into contact with such a specimen or culture; or

- (f) any other article or matter that is discarded in the course of medical, dental or veterinary practice or research and that poses a significant risk to the health of a person who comes into contact with it;

on-site, in relation to the storage or disposal of waste or other matter—see subclause (3)(a);

prescribed factors—see subclause (3)(b);

prescribed approved activity—each of the following is a prescribed approved activity:

- (a) the on-site storage or disposal of domestic waste;
- (b) a regulated beverage container activity;
- (c) a regulated drop-off station for e-waste;
- (d) the temporary on-site storage of waste (other than tyre waste) while awaiting transport to another place;
- (e) the conduct of a depot, works or facility—
 - (i) for the disposal by incineration (by way of thermal oxidation using fuel burning equipment) of solid trade waste; and
 - (ii) that has a processing capacity not exceeding 100 kilograms per hour;
- (f) the storage or disposal of tyre waste in a manner approved by the Authority;
- (g) the disposal of human wastewater or sewage to land in a manner approved by the Authority;

quarantine waste means waste that is subject to quarantine under the *Quarantine Act 1908* of the Commonwealth;

regulated beverage container activity—see subclause (2);

regulated drop-off station for e-waste means a depot, facility or works for the reception of e-waste conducted at a particular location on an occasional basis (not exceeding a total of 30 days during a 12 month period) by a council or other public authority or under a co-regulatory arrangement (within the meaning of the *Product Stewardship Act 2011* of the Commonwealth);

tyre waste means waste or other matter comprised of tyres or tyre pieces;

waste has the same meaning as in section 4, and includes wastewater;

wastewater means waste principally consisting of water and includes—

- (a) human wastewater;
- (b) sewage;
- (c) water containing food or beverage waste;

- (d) wash down water or cooling water;
 - (e) irrigation runoff or contaminated stormwater;
 - (f) water containing any other trade waste or industrial waste;
 - (g) any other water that has been used in any form of human activity;
 - (h) a combination of any of the above.
- (2) For the purposes of this Schedule, each of the following is a regulated beverage container activity:
- (a) the collection and handling of beverage containers by the holder of an approval to operate a collection depot under section 69;
 - (b) the collection, handling and delivery for reuse, recycling or other disposal of beverage containers by the holder of an approval to carry on business as a super collector under section 69;
 - (c) the handling for charitable or non-profit purposes only of beverage containers bearing an approved refund marking under Part 8 Division 2.
- (3) For the purposes of this Schedule, unless the contrary intention appears—
- (a) a reference to the on-site storage or disposal of waste or other matter is a reference to the storage or disposal of the waste or matter at the place at which the waste or matter was generated; and
 - (b) a reference to the prescribed factors, in relation to an activity, is a reference to—
 - (i) the nature and purpose of the activity; and
 - (ii) the location of the activity; and
 - (iii) the scale and duration of the activity; and
 - (iv) the nature and amount of any waste or pollution produced by the activity; and
 - (v) the manner of conduct of the activity; and
 - (vi) any other factors considered relevant by the Authority.
- (2) Schedule 1, Part A—before clause 1 insert:

A2—Interpretation—*waste depot*

For the purposes of section 113(6), a *waste depot* means any depot, facility or works of a kind referred to in clause 3 of this Part at which waste is received.

- (3) Schedule 1, Part A, clause 1(4)—delete subclause (4)

- (4) Schedule 1, Part A, clause 1(5)—delete subclause (5) and substitute:
- (5) **Hydrocarbon storage or production works**
the conduct of works or a facility—
- (a) for the storage of hydrocarbon or hydrocarbon products in tanks that, in aggregate, have a storage capacity of more than 2 000 cubic metres; or
- (b) for the production of hydrocarbon or hydrocarbon products, being works with a production capacity of more than 20 tonnes per hour.
- (5) Schedule 1, Part A, clause 1(6)—delete subclause (6) and substitute:
- (6) **Timber preservation works**
the conduct of works for the preservation of timber by chemicals, but excluding the preservation by a primary producer of timber for use in the course of primary production carried on by the producer.
- (6) Schedule 1, Part A, clause 2(2)—after "asphaltic materials" insert:
(by heating in a furnace, kiln or other fuel fired plant)
- (7) Schedule 1, Part A, clause 2(6)—delete subclause (6) and substitute:
- (6) **Drum reconditioning or treatment works**
the conduct of works for the cleaning, repairing, reconditioning or other treatment of metal or plastic drums or containers for the purposes of their reuse, including any associated storage facility.
- (8) Schedule 1, Part A, clause 2(11)—delete subclause (11)
- (9) Schedule 1, Part A, clause 2(12)(c)—delete "and" and substitute:
or
- (10) Schedule 1, Part A, clause 2(13)—delete "**Wood**" and substitute:
Timber
- (11) Schedule 1, Part A, clause 3—delete the clause and substitute:

3—Resource recovery, waste disposal and related activities

(1) **Waste recovery**

the conduct of a *waste recovery facility*, being a depot, facility or works (including, but not limited to, a transfer station or material recovery facility) that, during a 12 month period, receives for preliminary treatment, or has the capacity for the preliminary treatment of—

- (a) more than 100 tonnes of solid waste or matter; or
- (b) more than 100 kilolitres of liquid waste or matter,

prior to its transfer elsewhere for lawful reuse, further treatment or disposal, but excluding a prescribed approved activity or an activity in respect of which the Authority is satisfied, having regard to the prescribed factors, that an environmental authorisation is not justified.

In this subclause—

preliminary treatment, of waste or matter, includes sorting, aggregating, compacting, baling or packaging the waste or matter.

(2) **Waste reprocessing**

the conduct of—

- (a) ***composting works***, being a depot, facility or works with the capacity to treat, during a 12 month period—
- (i) in the case of works located wholly or partly within a water protection area—more than 200 tonnes of organic waste or matter; or
 - (ii) in the case of works located wholly outside of a water protection area—more than 1 000 tonnes of organic waste or matter,

for the production of compost; or

- (b) ***scrap metal treatment works***, being a depot, facility or works for the treatment of scrap metal (by processes involving electrically heated furnaces or other fuel burning equipment or by mechanical processes); or
- (c) ***tyre waste treatment works***, being a depot, facility or works with the capacity to treat more than 5 tonnes of tyre waste during a 12 month period; or
- (d) ***waste lead acid battery treatment works***, being a depot, facility or works with the capacity to treat more than 500 waste lead acid batteries during a 12 month period; or
- (e) any other ***waste reprocessing facility***, being a depot, works or facility other than a depot, facility or works specified in a preceding paragraph) that, during a 12 month period, receives or has the capacity to treat—

- (i) more than 100 tonnes of solid waste or matter; or
- (ii) more than 100 kilolitres of liquid waste or matter,

for the production of energy or materials that are ready for use (without requiring further treatment),

but excluding a prescribed approved activity or an activity in respect of which the Authority is satisfied, having regard to the prescribed factors, that an environmental authorisation is not justified.

(3) **Waste disposal**

the conduct of—

- (a) a *landfill depot*, being a depot, facility or works for the disposal of waste to land; or
- (b) a *liquid waste depot*, being a depot, facility or works for the reception and disposal of liquid waste, or the reception, treatment and disposal of liquid waste; or
- (c) an *incineration depot*, being a depot, facility or works for the disposal, by incineration, pyrolysis or gasification by high temperature chemical decomposition, or thermal oxidation using fuel burning equipment, of solid waste, a listed waste or quarantine waste,

but excluding a prescribed approved activity or an activity in respect of which the Authority is satisfied, having regard to the prescribed factors, that an environmental authorisation is not justified.

(4) **Wastewater treatment**

the conduct of *wastewater treatment works*, being sewage treatment works, a CWMS, winery wastewater treatment works or any other wastewater treatment works with the capacity to treat, during a 12 month period—

- (a) in the case of works located wholly or partly within a water protection area—more than 5 megalitre of wastewater; or
- (b) in the case of works located wholly outside of a water protection area—more than 50 megalitre of wastewater.

(5) **Activities involving listed wastes**

- (a) an *activity producing listed waste*—the conduct of an activity in which a listed waste is produced as waste or becomes waste, but excluding the following:
 - (i) a domestic activity;
 - (ii) retail pharmacy;
 - (iii) medical practice (other than the practice of pathology);
 - (iv) nursing practice;
 - (v) dental practice;
 - (vi) veterinary practice;
 - (vii) the conduct of a nursing home or other residential aged care facility;
 - (viii) the conduct of an immunisation clinic;
 - (ix) the conduct of a hospital with capacity of fewer than 40 beds;
 - (x) a prescribed industrial activity;

- (xi) an activity in which the waste produced is lawfully disposed of to a sewer;
 - (xii) an activity in respect of which the Authority is satisfied, having regard to the prescribed factors, that an environmental authorisation is not justified;
- (b) ***reception or storage of listed waste***—the conduct of a depot, facility or works for the reception or storage of a listed waste, but excluding the following:
- (i) the temporary on-site storage of such waste while awaiting transport to another place;
 - (ii) an activity consisting only of storing or distributing goods, in respect of which the Authority is satisfied, having regard to the prescribed factors, that an environmental authorisation is not justified;
 - (iii) the reception or storage by a council or hospital of medical waste produced in the course of a prescribed medical activity;
 - (iv) the reception or storage by a retail pharmacy of personal sharps waste, pharmaceutical waste or other medical waste, in connection with a return system for such waste;
- (c) ***treatment of listed waste***—the conduct of a depot, facility or works for the treatment of a listed waste, or wastewater containing a listed waste, by immobilising, stabilising or sterilising the waste by any process (before its further treatment or disposal), but excluding an activity in respect of which the Authority is satisfied, having regard to the prescribed factors, that an environmental authorisation is not justified.

In this subclause—

personal sharps waste means medical sharps that have been used in a domestic situation for medical purposes;

pharmaceutical waste means waste comprised of medicines or other pharmaceutical products;

prescribed industrial activity—each of the following is a prescribed industrial activity:

- (a) building work;
- (b) carpentry or joinery;
- (c) film processing;
- (d) plumbing or gas fitting;
- (e) dry cleaning;
- (f) primary or secondary school education;

- (g) agriculture or horticulture;
- (h) french polishing;
- (i) manufacturing jewellery;
- (j) painting or decorating;
- (k) panel beating and associated spray painting;
- (l) an activity that results in the production of less than 50 000 litres of waste oil per year;
- (m) an activity authorised by a lease or licence under the *Mining Act 1971*, the *Petroleum and Geothermal Energy Act 2000* or the *Roxby Downs (Indenture Ratification) Act 1982* where the waste is lawfully disposed of to land and contained within the area of the lease or licence;
- (n) an activity authorised by a lease under the *Mining Act 1971* where the waste is lawfully disposed of to land and contained within the area of a miscellaneous purposes licence under that Act adjacent to the area of the lease;

prescribed medical activity—each of the following is a prescribed medical activity:

- (a) medical practice other than—
 - (i) medical practice at a hospital; or
 - (ii) the practice of pathology;
- (b) nursing practice other than at a hospital;
- (c) dental practice other than at a hospital;
- (d) operating a nursing home;
- (e) veterinary practice;
- (f) operating a hospital with a capacity of less than 40 beds;
- (g) operating an immunisation clinic.

(6) Waste transport

the conduct of—

- (a) a ***waste transport business (category A)***, being the collection or transport for fee or reward of—
 - (i) a listed waste; or
 - (ii) liquid waste (not being such waste lawfully disposed of to a sewer) arising from any commercial or industrial premises or from any teaching or research institution; or
- (b) a ***waste transport business (category B)***, being the collection or transport for fee or reward of—

- (i) waste from domestic premises where the waste is collected or transported for or on behalf of a council; or
- (ii) solid waste from any commercial or industrial premises or from any teaching or research institution (other than building or demolition waste); or
- (iii) human wastewater from a CWMS or a septic tank or other on-site wastewater system; or
- (iv) waste soil containing a listed waste in a concentration above that naturally occurring in soil in the area,

but excluding an activity in respect of which the Authority is satisfied, having regard to the prescribed factors, that an environmental authorisation is not justified.

- (12) Schedule 1, Part A, clause 4(2)(a) and (b)—delete paragraphs (a) and (b) and substitute:
- (a) land or premises on which a business is carried on in the council area of the City of Mount Gambier; or
 - (b) a stormwater drainage system in the council area of the City of Mount Gambier; or
- (13) Schedule 1, Part A, clause 5(4)—delete subclause (4) and substitute:
- (4) **Piggeries**
- the conduct of a piggery (being premises having confined or roofed structures for keeping pigs) with a capacity of—
- (a) in the case of a piggery located wholly outside of a water protection area—6 500 or more standard pig units; or
 - (b) in the case of a piggery located wholly or partly within a water protection area—650 or more standard pig units.
- In this subclause—
- standard pig units* is a unit of measurement of pigs determined—
- (a) by reference to clause 4.3 of the *National Environmental Guidelines for Piggeries 2010* (second edition (revised)) prepared by Australian Pork Limited; or
 - (b) in a manner approved by the Environment Protection Authority and published on a website determined by the Environment Protection Authority.
- (14) Schedule 1, Part A, clause 6(1)—delete "**Abattoirs, Slaughterhouses or Poultry Processing Works**" and substitute:
- Meat processing works**
- (15) Schedule 1, Part A, clause 6(3)—delete subclause (3)

(16) Schedule 1, Part A, clause 6(4)—delete subclause (4) and substitute:

(4) **Fish Processing**

the conduct of works for scaling, gilling, gutting, filleting or otherwise processing fish for sale, but excluding—

- (a) works with a processing output of less than 100 tonnes per year where wastewater is disposed of to a sewer or CWMS; or
- (b) works with a processing output of less than 2 tonnes per year where wastewater is disposed of otherwise than to a sewer or CWMS; or
- (c) processing of fish only in the course of a business of selling fish by retail.

In this subclause—

fish has the same meaning as in the *Fisheries Management Act 2007*; *processing fish* does not include freezing, chilling or packing the fish.

(17) Schedule 1, Part A, clause 6(6)(b)—delete "waste water is generated and disposed of otherwise than to a sewer or septic tank effluent disposal system" and substitute—

wastewater is generated and disposed of otherwise than to a sewer or CWMS

(18) Schedule 1, Part A, clause 7(2)(f)—delete paragraph (f) and substitute:

- (f) an activity in respect of which the Authority is satisfied, having regard to the prescribed factors, that an environmental authorisation is not justified.

(19) Schedule 1, Part A, clause 7(6)—delete "waste water" and substitute:

wastewater

(20) Schedule 1, Part A, clause 8—after subclause (7) insert:

(8) **Cremation or incineration of human or animal remains**

the conduct of a facility for the cremation or incineration of human or animal remains by means of thermal oxidation using fuel burning equipment.

In this subclause—

human or animal remains does not include—

- (a) medical waste; or
- (b) cytotoxic wastes; or
- (c) quarantine waste.

(21) Schedule 1, Part B—delete Part B and substitute:

Part B—Listed wastes

Acids and acidic solutions

Adhesives (excluding solid inert polymeric materials)

Alkali metals and alkaline earth metals

Alkalis and alkaline solutions

Antimony and antimony compounds and solutions

Arsenic and arsenic compounds and solutions

Asbestos

Barium compounds and solutions

Beryllium and beryllium compounds

Boron and boron compounds

Cadmium and cadmium compounds and solutions

Calcium carbide

Carbon disulphide

Carcinogens teratogens and mutagens

Chlorates

Chromium compounds and solutions

Copper compounds and solutions

Cyanides or cyanide solutions and cyanide complexes

Cytotoxic wastes

Dangerous substances within the meaning of the *Dangerous Substances Act 1979*

Distillation residues

Fluoride compounds

Halogens

Heterocyclic organic compounds containing oxygen, nitrogen or sulphur

Hydrocarbons and their oxygen, nitrogen and sulphur compounds (including oils)

Isocyanate compounds (excluding solid inert polymeric materials)

Laboratory chemicals

Lead compounds and solutions

Lime sludges or slurries

Manganese compounds

Medical waste

Mercaptans

Mercury compounds and equipment containing mercury

Nickel compounds and solutions

Nitrates
Organic halogen compounds (excluding solid inert polymeric materials)
Organic phosphates
Organic solvents
Organometallic residues
Oxidising agents
Paint sludges and residues
Perchlorates
Peroxides
Pesticides (including herbicides and fungicides)
Pharmaceutical wastes and residues
Phenolic compounds (excluding solid inert polymeric materials)
Phosphorus and its compounds
Polychlorinated biphenyls
Poisons within the meaning of the *Controlled Substances Act 1984*
Reactive chemicals
Reducing agents
Selenium and selenium compounds and solutions
Silver compounds and solutions
Solvent recovery residues
Sulphides and sulphide solutions
Surfactants
Thallium and thallium compounds and solutions
Vanadium compounds
Zinc compounds and solutions

Schedule 1—Transitional provisions

1—Interpretation

In this Schedule, unless the contrary intention appears—

existing licensee means a person who, immediately before the commencement of this clause, held a licence to undertake a prescribed activity of environmental significance under old Schedule 1;

licence has the same meaning as in the principal Act;

new Schedule 1 means Schedule 1 of the principal Act as amended by these regulations;

old Schedule 1 means Schedule 1 of the principal Act as in force immediately before the commencement of these regulations;

principal Act means the *Environment Protection Act 1993*.

2—Licences to continue

- (1) Subject to subclause (2), a licence that, immediately before the commencement of this clause, authorised a person to undertake a prescribed activity of environmental significance under old Schedule 1, continues after that commencement as a licence to undertake the same activity under new Schedule 1 (despite the fact that it may be differently described or numbered under new Schedule 1) and is subject to the same conditions as those applying immediately before that commencement.
- (2) The Authority may, on the Authority's own initiative or on application by an existing licensee—
 - (a) grant a new licence to the person; or
 - (b) revoke an existing licence; or
 - (c) by notice in writing to the licensee given within 2 years after the commencement of this clause—
 - (i) vary the terminology or numbering in the existing licence; or
 - (ii) impose or vary a condition of the existing licence,if, in the opinion of the Authority, it is necessary or desirable to do so as a consequence of the variation of Schedule 1 of the principal Act by these regulations.
- (3) The Authority is not required to grant a licence, or impose or vary a condition of a licence, on application by an existing licensee under this clause except on application and payment of the appropriate fees under Part 6 of the principal Act.
- (4) If the Authority takes action under subclause (2) on its own initiative, the Authority may dispense with the requirement for applications and payment of fees as it considers appropriate.
- (5) Public notice is not required to be given under Part 6 of the principal Act in respect of a licence that is granted or varied pursuant to this clause.
- (6) A licence granted pursuant to this clause is, except as specified in this clause, subject to the principal Act.
- (7) For the avoidance of doubt, a reference in this clause to a condition of a licence includes a reference to a term of a licence, or an authorisation or any other right or limitation set out in a licence.

3—Approvals relating to management of tyre waste

- (1) An approval by the Authority under Schedule 1 Part A clause 3(3)(f) of the principal Act as in force immediately before the commencement of this clause in relation to the manner of handling and disposal of waste tyres or tyre pieces will be taken, on and from that commencement, to be a *prescribed approved activity* of a kind specified in paragraph (f) of the definition of that term in Schedule 1 Part AA clause A1(1) as inserted by Part 2 of these regulations.

- (2) The approval (as continued by virtue of subclause (1)) is subject to the same conditions (if any) as those applying immediately before the commencement of this clause.

4—Determinations that environmental authorisation not justified

A determination by the Authority under Schedule 1 Part A clause 3(3)(i), 3(4)(y) or 7(2)(f) of the principal Act as in force immediately before the commencement of this clause that the requirement of an environmental authorisation under Part 6 would not be justified in relation to an activity will be taken, on and from that commencement, to be a determination by the Authority that an environmental authorisation is not justified in respect of the activity having regard to the *prescribed factors* (within the meaning of that term in Schedule 1 Part AA clause A1(1) as inserted by Part 2 of these regulations).

Made by the Governor

with the advice and consent of the Executive Council
on 17 January 2019

No 1 of 2019

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