

Version No. 002
**Circular Economy (Waste Reduction and
Recycling) (Waste to Energy Scheme)
Regulations 2023**

S.R. No. 33/2023

Version incorporating amendments as at
17 December 2024

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Circular Economy (Waste Reduction and Recycling) (Waste to Energy Scheme) Regulations 2023

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Version incorporating amendments as at
17 December 2024

Part 1—Preliminary

1 Objective

The objective of these Regulations is to prescribe matters in relation to the waste to energy scheme under Part 5A of the **Circular Economy (Waste Reduction and Recycling) Act 2021**.

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 June 2023.

4 Definitions

In these Regulations—

Authority has the same meaning as in the **Environment Protection Act 2017**;

biochar means a stable type of charcoal produced from heating organic matter in a high temperature, low oxygen combustion process such as pyrolysis or gasification;

biosolids means solid organic residues from the wastewater treatment process and treated sewage sludge;

development licence has the same meaning as in the **Environment Protection Act 2017**;

gasification process means technology where waste materials are heated to very high temperatures (generally between 1000 to 1500 degrees Celsius) with some oxygen or steam that breaks down the molecules into a syngas;

operating licence has the same meaning as in the **Environment Protection Act 2017**;

permission has the same meaning as in the **Environment Protection Act 2017**;

pilot project licence has the same meaning as in the **Environment Protection Act 2017**;

pyrolysis process means the treatment of waste with heat (generally between 400 and 1000 degrees Celsius) in the absence of oxygen, with or without catalysts;

reportable priority waste has the same meaning as in the **Environment Protection Act 2017**;

sequestering carbon means capturing and storing atmospheric carbon dioxide (other than by storing in landfill);

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

waste biomass means wastes that are biological in origin, animal or plant matter (such as food and garden waste), wood waste, crop waste and biosolids;

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Part 1—Preliminary

wood waste has the same meaning as in the
Renewable Energy (Electricity) Regulations
2001 of the Commonwealth.

Pt 2 (Heading)
amended by
S.R. No.
138/2024
reg. 4.

Part 2—Advanced recycling process, cap limit, exempt waste, thermal waste to energy processes and permitted waste

5 Advanced recycling process

For the purposes of the definition of *advanced recycling process* in section 74L of the Act, a prescribed advanced recycling process is the conversion of a material or substance to monomer or chemicals intended for the production of polymer materials (other than fuels) by changing the chemical structure of a material or substance through cracking, gasification, pyrolysis or depolymerisation.

Example

A facility processing post-consumer soft plastics back into industrial-quality soft plastics.

Reg. 5A
inserted by
S.R. No.
138/2024
reg. 5.

5A Cap limit

For the purposes of the definition of *cap limit* in section 74L of the Act, the prescribed maximum aggregate amount is 2 million tonnes per financial year.

6 Exempt waste

For the purposes of the definition of *exempt waste* in section 74L of the Act, the following is prescribed to be exempt waste—

- (a) waste biomass of the following types—
 - (i) wood waste;
 - (ii) waste from any of the following primary production activities—
 - (A) straw, chaff and other waste from agricultural crops;
 - (B) nut hulls and shells;

- (C) pips, pits and seeds from olives and other fruits;
- (D) grape marc and other grape processing waste;
- (E) poultry litter;
- (F) paunch and abattoir wastes;
- (iii) waste from any of the following manufacturing activities—
 - (A) fruit and vegetable processing waste;
 - (B) residues from pulp and paper manufacturing and processing that cannot be recycled into new paper products;
- (iv) biosolids;
- (b) reportable priority waste.

7 Thermal waste to energy processes

For the purposes of section 74M(2)(f) of the Act, a thermal waste to energy process does not include the following—

- (a) a thermal waste to energy process in respect of which a pilot project licence has been issued and is in force;
- (b) a process that treats waste biomass through a pyrolysis process or gasification process to sequester carbon.

Example

A process that produces biochar that is applied to land.

8 Permitted waste

- (1) For the purposes of section 74N(1) of the Act, waste prescribed not to be permitted waste is waste biomass other than those specified in regulation 6(a) or processed in a manner specified in regulation 7(b).
- (2) For the purposes of section 74N(2)(c) of the Act, municipal solid waste that is municipal residual waste (other than municipal food organics and garden organics and municipal recycling material) that has undergone source separation is prescribed to be permitted waste.
- (3) For the purposes of section 74N(3)(b) of the Act, the operator of a thermal waste to energy facility must show that it is not technically, environmentally or economically practicable to further reuse or recycle, or to extract further resources or material, from the industrial waste by—
 - (a) demonstrating that a technology or process does not exist that could sort or recycle the waste; or
 - (b) demonstrating that the reuse or recycling of the waste is prohibited by this Act or any other Act; or
 - (c) performing an assessment that compares the environmental impacts of reusing or recycling the industrial waste with the environmental costs of recovering thermal energy from that waste; or

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Part 2—Advanced recycling process, cap limit, exempt waste, thermal waste
to energy processes and permitted waste

- (d) performing an economic analysis that demonstrates that the financial costs of available options to reuse or recycle the waste (including transportation costs) are disproportionate to the environmental, social and economic benefits of reusing or recycling the waste.

Part 3—Existing operator licences

9 Existing operator may apply for existing operator licence

- (1) For the purposes of section 74X(3)(b) of the Act, an application under section 74X(1) of the Act must be in writing.
- (2) For the purposes of section 74X(3)(c) of the Act, the prescribed information to be contained in an application under section 74X(1) of the Act is—
 - (a) the applicant's name, address and photographic proof of identity; and

Example

Examples of photographic proof of identity include a valid driver's licence or passport.

- (b) if the applicant is not a natural person, a written statement that specifies—
 - (i) any Australian Company Number or Australian Business Number; and
 - (ii) the address of the business, company or entity; and
 - (iii) the name and number of any directors, chief executive officer, chief financial officer, secretary or other officer who has control or substantial control over the management of the business, company or entity; and
- (c) any information that establishes that—
 - (i) the applicant is an existing operator; and
 - (ii) some or all of the waste authorised to be processed by the existing operator is permitted waste; and

- (d) any information that goes to whether the applicant, and if the applicant is not a natural person, the person or persons identified in paragraph (b)(iii), is a fit and proper person; and

Example

A National Police Certificate.

- (e) whether the applicant, and if the applicant is not a natural person, the person or persons identified in paragraph (b)(iii), has been found guilty of an offence against the Act, any regulations under the Act or the Corporations Act; and
- (f) whether the applicant, and if the applicant is not a natural person, the person or persons identified in paragraph (b)(iii), has, within the preceding 10 years, been found guilty of—
- (i) an indictable offence; or
 - (ii) an offence that, if committed in Victoria, would constitute an indictable offence; or
 - (iii) an offence involving fraud or dishonesty; or
 - (iv) an offence that, if committed in Victoria, would constitute an offence referred to in subparagraph (iii); or
 - (v) an offence against a law of Victoria, another State or a Territory, or the Commonwealth that regulates the supply of energy; and
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- (g) whether the applicant, and if the applicant is not a natural person, the person or persons identified in paragraph (b)(iii), is charged with an offence described in paragraph (f) and the charge has not been finally dealt with; and
 - (h) whether the applicant—
 - (i) is an insolvent under administration; or
 - (ii) is an externally-administered company under the Corporations Act; or
 - (iii) has failed to comply with an order of any court or tribunal; and
 - (i) if the applicant is a natural person, whether the applicant has ever previously had a waste to energy licence, or a licence, permit or permission (however described) suspended, revoked or disqualified under the Act, the **Environment Protection Act 2017** or any other law in or outside Victoria in relation to waste to energy, or waste and recycling, and, if so, details of the suspension, revocation or disqualification; and
 - (j) if the applicant is not a natural person, whether the applicant and any officer of the applicant or of another body corporate that has or had one or more officers in common with the applicant has ever previously had a waste to energy licence, or a licence, permit or permission (however described) suspended, revoked or disqualified under the Act, the **Environment Protection Act 2017** or any other law in or outside Victoria in relation to waste to energy, or waste and recycling, and, if so, details of the suspension, revocation or disqualification; and
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- (k) any information on the following—
 - (i) the applicant's greenhouse gas emissions associated with the existing facility, and any likely climate change impact;
 - (ii) the existing facility's proposed greenhouse gas mitigation measures;
 - (iii) an assessment of the impacts and risks climate change poses to the existing facility and measures to be implemented to manage any such risks;
 - (iv) the applicant's technology and thermal waste to energy process to be, or being, used in the existing facility;
 - (v) the applicant's waste to be, or being, processed at the waste to energy facility, energy output and utilisation;
 - (vi) the applicant's approach to community engagement; and
 - (l) a copy of any existing waste processing authority held by the applicant with respect to the existing facility, including any modifications or variations to the existing waste processing authority; and
 - (m) details of any application for any other permit or licence under the Act, the **Environment Protection Act 2017**, the **Planning and Environment Act 1987** or any other law in or outside Victoria in relation to waste to energy, or waste and recycling with respect to the existing facility and, if the application was determined, the details of the determination; and
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Reg. 9(2)(n)
amended by
S.R. No.
138/2024
reg. 6.

(n) a statement signed by the applicant confirming that the information contained in the application is, to the best of the applicant's knowledge, true and correct.

(3) For the purposes of section 74X(3)(d) of the Act, the prescribed fee is 780 fee units.

10 Issue of existing operator licences

(1) For the purposes of section 74Y(3)(a) of the Act, the following are prescribed matters—

(a) information provided in an application for an existing operator licence;

Note

See regulation 9 for prescribed form and manner requirements of an application for an existing operator licence.

(b) any advice or information provided to the Head, Recycling Victoria by the Authority in relation to the applicant regarding—

(i) any non-compliance with any development licence in relation to the existing facility; and

(ii) any non-compliance with any operating licence in relation to the existing facility; and

(iii) whether any activity that is the subject of the application or licence poses an unacceptable risk of harm to human health or the environment;

(c) any conditions the applicant is subject to in accordance with a permission in relation to the existing facility;

- (d) any permit, licence or authorisation (however described) issued or granted in relation to the existing facility under the **Planning and Environment Act 1987**.
- (2) For the purposes of section 74Y(3)(c) of the Act, the Head, Recycling Victoria, by written notice, may request any further information in relation to the matters specified in regulation 9(2) and subregulation (1) if the Head, Recycling Victoria considers that the information is necessary to enable the Head, Recycling Victoria to determine whether to issue or refuse to issue an existing operator licence.
- (3) A notice under subregulation (2) must specify—
 - (a) the information required to be provided; and
 - (b) the date by which the information must be provided to the Head, Recycling Victoria.

Pt 3A
(Heading and
regs 10A–
10C)
inserted by
S.R. No.
138/2024
reg. 7.

Reg. 10A
inserted by
S.R. No.
138/2024
reg. 7.

Part 3A—Cap licences

10A Head, Recycling Victoria may invite expressions of interest for cap licences or increase of allocated cap amount

- (1) For the purposes of section 74R(8)(a) of the Act, the following are prescribed matters—
 - (a) information provided in the expression of interest to apply for a cap licence or an increase in the allocated cap amount specified in a cap licence;
 - (b) the source, composition, material type and weight of permitted waste and exempt waste (in metric tonnes) proposed to be processed over the projected lifetime of the facility;
 - (c) the technology that the applicant proposes to use at the facility, including the ability of that technology—
 - (i) to process the type and amount of waste that is proposed to be processed at the facility; and
 - (ii) to accept different feedstock to that proposed by the applicant;
 - (d) any advice or information provided to the Head, Recycling Victoria by the Authority that outlines any environmental or compliance risks posed by the facility;

- (e) if the applicant holds an existing operator licence or a cap licence for the facility—
 - (i) information contained in that existing operator licence or cap licence (as the case requires); and
 - (ii) any permit or licence issued under the Act, the **Environment Protection Act 2017** or the **Planning and Environment Act 1987** with respect to the facility, including any existing waste processing authority and any modifications or variations to that authority; and
 - (iii) any conditions the applicant is subject to in accordance with a permission in relation to the facility;
 - (f) details of any application for any other permit or licence under the Act, the **Environment Protection Act 2017** or the **Planning and Environment Act 1987** with respect to the facility and, if the application was determined, the details of the determination;
 - (g) any planned, completed or ongoing engagement with—
 - (i) the local community; and
 - (ii) any relevant traditional owners.
- (2) For the purposes of section 74R(8)(c) of the Act, the Head, Recycling Victoria, by written notice, may request any further information in relation to the information contained in an expression of interest if the Head, Recycling Victoria considers that the information is necessary to enable the Head, Recycling Victoria to determine whether the person may or must not apply for a cap licence

or may or must not apply for an increase in the allocated cap amount specified in a cap licence.

- (3) A notice under subregulation (2) must specify—
 - (a) the information required to be provided; and
 - (b) the date by which the information must be provided to the Head, Recycling Victoria.
- (4) The prescribed fee for submitting an expression of interest under section 74R of the Act is 780 fee units.
- (5) For the purposes of section 74R(10)(a) of the Act, the prescribed information is, if the Head, Recycling Victoria has determined that the person must not apply for a cap licence or for an increase in the allocated cap amount specified in a cap licence, the reasons for the Head, Recycling Victoria's decision.

Reg. 10B
inserted by
S.R. No.
138/2024
reg. 7.

10B Applications for cap licences

- (1) For the purposes of section 74S(3)(b) of the Act, an application under section 74S(1) of the Act must be in writing.
- (2) For the purposes of section 74S(3)(d) of the Act, the prescribed fee is—
 - (a) for an application that indicates that the facility will thermally process at least 80 000 tonnes of permitted waste each financial year, 2095 fee units; or
 - (b) for an application that indicates that the facility will thermally process less than 80 000 tonnes of permitted waste each financial year, 1045 fee units.

10C Issue of cap licences

- (1) For the purposes of section 74T(2)(a) of the Act, the prescribed matters are the following—
- (a) information provided in the applicant's expression of interest to apply for a cap licence or an increase in the allocated cap amount specified in a cap licence;
 - (b) information provided in the application for a cap licence;
 - (c) if the application relates to a critical waste infrastructure project specified in Column 2 of the table in Schedule 1, the desirability of that project meeting the corresponding critical need specified in Column 3 of the table in Schedule 1 through the operation of waste to energy facilities related to that project;
 - (d) the extent to which the facility would contribute to an efficient waste infrastructure system, including by reason of the facility's proximity to—
 - (i) sources of suitable feedstock; and
 - (ii) offtake destinations for energy and other output products;
 - (e) the commercial viability of the facility, having regard to the following—
 - (i) any commercial milestones achieved in relation to the facility;
 - (ii) any remaining commercial milestones in relation to the facility and when the applicant expects to achieve them;
 - (iii) details of any feedstock agreements the applicant has obtained;

Reg. 10C
inserted by
S.R. No.
138/2024
reg. 7.

- (iv) details of any feedstock agreements the applicant is seeking and when the applicant expects to obtain them;
 - (v) details of any energy or by-product offtake agreements the applicant has obtained;
 - (vi) details of any energy or by-product offtake agreements the applicant is seeking and when the applicant expects to obtain them;
 - (vii) any other matter relevant to the commercial viability of the facility;
 - (f) any information provided to the Head, Recycling Victoria regarding whether the applicant has obtained environmental, planning, safety and other permits or licences associated with operating or developing the facility;
 - (g) any economic benefits associated with the facility, including employment opportunities created by the construction and operation of the facility;
 - (h) the energy outputs and offtakes of the facility and how the outputs and offtakes contribute to efficient energy fuels or products.
- (2) For the purposes of section 74T(2)(c) of the Act, the Head, Recycling Victoria, by written notice, may request any further information in relation to the matters specified in subregulation (1) if the Head, Recycling Victoria considers that the information is necessary to enable the Head, Recycling Victoria to determine whether to issue or refuse to issue a cap licence.

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Part 3A—Cap licences

- (3) A notice under subregulation (2) must specify—
- (a) the information required to be provided; and
 - (b) the date by which the information must be provided to the Head, Recycling Victoria.

Part 4—Amendment, suspension, revocation and transfer of waste to energy licences

11 Amendment of waste to energy licences

- (1) For the purposes of section 74ZB(2)(a) of the Act, an application under section 74ZB(1)(b) of the Act must be in writing.
- (2) For the purposes of section 74ZB(2)(b) of the Act, the prescribed information to be contained in an application under section 74ZB(1)(b) of the Act is—
 - (a) the applicant's name, address and photographic proof of identity; and

Example

Examples of photographic proof of identity include a valid driver's licence or passport.

- (b) if the applicant is not a natural person—
 - (i) any Australian Company Number or Australian Business Number; and
 - (ii) the address of the business, company or entity; and
 - (c) a statement setting out the proposed amendment to the licence or conditions and why it is being sought; and
 - (d) in the case of an application to amend an existing operator licence, a copy of any modifications or variations to the existing waste processing authority for the existing facility; and
 - (e) details of any application for any other permit or licence under the Act, the **Environment Protection Act 2017**, the **Planning and Environment Act 1987** or any other law in or outside Victoria in relation to waste to energy, or waste and
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Part 4—Amendment, suspension, revocation and transfer of waste to energy licences

- recycling with respect to the existing facility and, if the application was determined, the details of the determination; and
- (f) a statement signed by the applicant confirming that the information contained in the application is, to the best of the applicant's knowledge, true and correct.
- (3) For the purposes of section 74ZB(2)(c) of the Act, the prescribed fee is 780 fee units.
- (4) For the purposes of section 74ZB(5)(b) of the Act, the prescribed criteria are—
- (a) information provided in the application to amend a waste to energy licence under subregulation (2); and
- (b) whether the applicant has made a previous application to amend the waste to energy licence and, if the application was determined, the details of the determination and amendment made, if any.
- (5) For the purposes of section 74ZB(7)(b) of the Act, the prescribed matters to be contained in a notice under section 74ZB(1) of the Act are—
- (a) if the maximum amount of permitted waste to be processed during a financial year has been reduced, that reduced amount; and
- (b) if the day on which the waste to energy licence ceases to be in force has changed, that day; and
- (c) details of any change to conditions on the waste to energy licence.

Reg. 11(2)(f)
amended by
S.R. No.
138/2024
reg. 8.

12 Suspension of waste to energy licences

- (1) For the purposes of section 74ZD(1)(h) of the Act, the prescribed matters are any relevant advice or information provided to the Head, Recycling Victoria by the Authority in relation to any of the following—
 - (a) any non-compliance by the holder of the waste to energy licence with any development licence in relation to the thermal waste to energy facility;
 - (b) any non-compliance by the holder of the waste to energy licence with any operating licence in relation to the thermal waste to energy facility;
 - (c) any unacceptable risk of harm to human health or the environment posed by the thermal waste to energy facility if the waste to energy licence is not suspended.
- (2) For the purposes of section 74ZD(2)(a) of the Act, the Head, Recycling Victoria must—
 - (a) date the notice; and
 - (b) cause the notice to be sent by post or electronically; and
 - (c) specify in the notice how and where any response in respect of the notice may be sent to the Head, Recycling Victoria.

13 Immediate suspension

- (1) For the purposes of section 74ZE(1)(b) of the Act, the prescribed matters are any relevant advice or information provided to the Head, Recycling Victoria by the Authority in relation to any of the following—

- (a) any non-compliance by the holder of the waste to energy licence with any development licence in relation to the thermal waste to energy facility;
 - (b) any non-compliance by the holder of the waste to energy licence with any operating licence in relation to the thermal waste to energy facility;
 - (c) any unacceptable risk of harm to human health or the environment posed by the thermal waste to energy facility if the waste to energy licence is not immediately suspended.
- (2) For the purposes of section 74ZE(2)(a) of the Act, the Head, Recycling Victoria must ensure written notice of the suspension—
- (a) is given within 7 days after the Head, Recycling Victoria's decision is made to immediately suspend the waste to energy licence; and
 - (b) is dated; and
 - (c) is sent by post or electronically; and
 - (d) specifies how and where any response in respect of the notice may be sent to the Head, Recycling Victoria.

14 Revocation of waste to energy licences

- (1) For the purposes of section 74ZF(1)(b)(viii) of the Act, the prescribed matters are any relevant advice or information provided to the Head, Recycling Victoria by the Authority in relation to any of the following—

- (a) any non-compliance by the holder of the waste to energy licence with any development licence in relation to the thermal waste to energy facility;
 - (b) any non-compliance by the holder of the waste to energy licence with any operating licence in relation to the thermal waste to energy facility;
 - (c) any unacceptable risk of harm to human health or the environment posed by the thermal waste to energy facility if the waste to energy licence is not revoked.
- (2) For the purposes of section 74ZF(3)(a) of the Act, the Head, Recycling Victoria must—
- (a) date the notice; and
 - (b) cause the notice to be sent by post or electronically; and
 - (c) specify in the notice how and where any response in respect of the notice may be sent to the Head, Recycling Victoria.

15 Immediate revocation

- (1) For the purposes of section 74ZG(1)(b) of the Act, the prescribed matters are any relevant advice or information provided to the Head, Recycling Victoria by the Authority in relation to any of the following—
- (a) any non-compliance by the holder of the waste to energy licence with any development licence in relation to the thermal waste to energy facility;
 - (b) any non-compliance by the holder of the waste to energy licence with any operating licence in relation to the thermal waste to energy facility;

- (c) any unacceptable risk of harm to human health or the environment posed by the thermal waste to energy facility if the waste to energy licence is not immediately revoked.
- (2) For the purposes of section 74ZG(2)(a) of the Act, the Head, Recycling Victoria must ensure that written notice of the revocation—
- (a) is given within 7 days after the Head, Recycling Victoria's decision is made to immediately revoke the waste to energy licence; and
 - (b) is dated; and
 - (c) is sent by post or electronically; and
 - (d) specifies how and where any response in respect of the notice may be sent to the Head, Recycling Victoria.

16 Disqualification of person from applying for waste to energy licences

For the purposes of section 74ZH(2)(a) of the Act, the notification must—

- (a) be dated; and
- (b) be sent by post or electronically; and
- (c) specify how and where any response in respect of the notice may be sent to the Head, Recycling Victoria.

17 Transfer of waste to energy licences

- (1) For the purposes of section 74ZI(2)(a) of the Act, an application under section 74ZI(1) of the Act is made in the prescribed form and manner if it contains—
- (a) written consent from the holder of the waste to energy licence in relation to the making of the application; and

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- (b) the applicant's name, address and photographic proof of identity; and

Example

Examples of photographic proof of identity include a valid driver's licence or passport.

- (c) if the applicant is not a natural person, a written statement that specifies—
- (i) any Australian Company Number or Australian Business Number; and
 - (ii) the address of the business, company or entity; and
 - (iii) the name and number of any directors, chief executive officer, chief financial officer, secretary or other officer who has control or substantial control over the management of the business, company or entity; and
- (d) any information that goes to whether the applicant, and if the applicant is not a natural person, the person or persons identified in paragraph (c)(iii), is a fit and proper person; and

Example

A National Police Certificate.

- (e) whether the applicant, and if the applicant is not a natural person, the person or persons identified in paragraph (c)(iii), has been found guilty of an offence against the Act, any regulations under the Act, or the Corporations Act; and
- (f) whether the applicant, and if the applicant is not a natural person, the person or persons identified in paragraph (c)(iii), has, within the preceding 10 years, been found guilty of—
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Part 4—Amendment, suspension, revocation and transfer of waste to energy licences

- (i) an indictable offence; or
 - (ii) an offence that, if committed in Victoria, would constitute an indictable offence; or
 - (iii) an offence involving fraud or dishonesty; or
 - (iv) an offence that, if committed in Victoria, would constitute an offence referred to in subparagraph (iii); or
 - (v) an offence against a law of Victoria, another State or a Territory, or the Commonwealth that regulates the supply of energy; and
- (g) whether the applicant, and if the applicant is not a natural person, the person or persons identified in paragraph (c)(iii), is charged with an offence described in paragraph (f) and the charge has not been finally dealt with; and
- (h) whether the applicant—
- (i) is an insolvent under administration; or
 - (ii) is an externally-administered company under the Corporations Act; or
 - (iii) has failed to comply with an order of any court or tribunal; and
- (i) if the applicant is a natural person, whether the applicant has ever previously had a waste to energy licence, or a licence, permit or permission (however described) suspended, revoked or disqualified under the Act, the **Environment Protection Act 2017** or any other law in or outside Victoria in relation to waste to energy, or waste and recycling, and, if so, details of the suspension, revocation or disqualification; and
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Part 4—Amendment, suspension, revocation and transfer of waste to energy licences

- (j) if the applicant is not a natural person, whether the applicant and any officer of the applicant or of another body corporate that has or had one or more officers in common with the applicant has ever previously had a waste to energy licence, or a licence, permit or permission (however described) suspended, revoked or disqualified under the Act, the **Environment Protection Act 2017** or any other law in or outside Victoria in relation to waste to energy, or waste and recycling, and, if so, details of the suspension, revocation or disqualification; and
 - (k) a copy of any existing waste processing authority held by the applicant with respect to the existing facility, including any modifications or variations to the existing waste processing authority; and
 - (l) details of any application for any other permit or licence under the Act, the **Environment Protection Act 2017**, the **Planning and Environment Act 1987** or any other law in or outside Victoria in relation to waste to energy, or waste and recycling with respect to the existing facility and, if the application was determined, the details of the determination; and
 - (m) a statement signed by the applicant confirming that the information contained in the application is, to the best of the applicant's knowledge, true and correct.
- (2) For the purposes of section 74ZI(2)(b) of the Act, the prescribed fee is 780 fee units.

Reg. 17(1)(m)
amended by
S.R. No.
138/2024
reg. 9.

- (3) For the purposes of section 74ZI(4)(a) of the Act, the prescribed matters are the following—
- (a) information provided in the application to transfer a waste to energy licence to the applicant under subregulation (1);
 - (b) whether the applicant has made a previous application to transfer a waste to energy licence, and if that application was determined, the details of the determination;
 - (c) any relevant advice or information provided to the Head, Recycling Victoria by the Authority in relation to the applicant regarding—
 - (i) any non-compliance by the applicant with any development licence in relation to the thermal waste to energy facility; or
 - (ii) any non-compliance by the applicant with any operating licence in relation to the thermal waste to energy facility.

18 Extension of submission period

- (1) For the purposes of section 74ZK(2)(c) of the Act, the following is prescribed information—
- (a) the applicant's name, address and photographic proof of identity;
Example
Examples of photographic proof of identity include a valid driver's licence or passport.
 - (b) a statement setting out why an extension is being sought;
 - (c) a statement signed by the applicant that states that the information contained in the application is, to the best of the applicant's knowledge, true and correct.

Reg. 18(1)(c)
amended by
S.R. No.
138/2024
reg. 10.

Reg. 19
inserted by
S.R. No.
138/2024
reg. 11.

- (2) For the purposes of section 74ZK(2)(b) of the Act, the prescribed fee is 390 fee units.

19 Head, Recycling Victoria may decrease allocated cap amount

- (1) For the purposes of section 74ZC(2)(a) of the Act, the Head, Recycling Victoria must notify the holder of the licence of the proposed decrease in writing.
- (2) For the purposes of section 74ZC(3)(a) of the Act, the prescribed information to be contained in an application under section 74ZC(1)(b) of the Act is—
- (a) the applicant's name, address and photographic proof of identity; and

Examples

Examples of photographic proof of identity include a valid driver's licence or passport.

- (b) if the applicant is not a natural person—
- (i) any Australian Company Number or Australian Business Number; and
- (ii) the address of the business, company or entity; and
- (iii) the name and number of any directors, chief executive officer, chief financial officer, secretary or other officer who has control or substantial control over the management of the business, company or entity; and
- (c) a statement setting out the proposed decrease to the allocated cap amount specified in the cap licence and why it is being sought; and

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- (d) a statement signed by the applicant confirming that the information contained in the application is, to the best of the applicant's knowledge, true and correct.
- (3) For the purposes of section 74ZC(3)(b) of the Act, an application under section 74ZC(1)(b) of the Act must be in writing.
- (4) For the purposes of section 74ZC(5)(a) of the Act, the prescribed matters are—
 - (a) information provided in the application to decrease the allocated cap amount; and
 - (b) whether the applicant has made a previous application to decrease the allocated cap amount and, if the application was determined, the details of the determination and decrease made, if any.
- (5) For the purposes of section 74ZC(5)(c) of the Act, the Head, Recycling Victoria, by written notice, may request any further information in relation to the matters specified in subregulation (2) if the Head, Recycling Victoria considers that the information is necessary to enable the Head, Recycling Victoria to determine whether to decrease the allocated cap amount specified in the cap licence.
- (6) A notice under subregulation (5) must specify—
 - (a) the information required to be provided; and
 - (b) the date by which the information must be provided to the Head, Recycling Victoria.

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Schedule 1—Critical waste infrastructure projects

Sch. 1
inserted by
S.R. No.
138/2024
reg. 12.

Schedule 1—Critical waste infrastructure projects

Regulation 10C(1)(c)

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item</i>	<i>Critical waste infrastructure project</i>	<i>Critical need</i>
1	The project procured by South East Metropolitan Advanced Waste Processing Pty Ltd ACN 654 660 438 that is known by the name "South East Metropolitan Advanced Waste Processing project" or by any subsequent name	Additional processing of waste due to closure of the Hampton Park Landfill

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current Versions of legislation and up-to-date legislative information.

The Circular Economy (Waste Reduction and Recycling) (Waste to Energy Scheme) Regulations 2023, S.R. No. 33/2023 were made on 23 May 2023 by the Governor in Council under section 183 of the **Circular Economy (Waste Reduction and Recycling) Act 2021**, No. 55/2021 and came into operation on 1 June 2023: regulation 3.

The Circular Economy (Waste Reduction and Recycling) (Waste to Energy Scheme) Regulations 2023 will sunset 10 years after the day of making on 23 May 2033 (see section 5 of the **Subordinate Legislation Act 1994**).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided regulation, rule or clause of a Schedule is amended by the insertion of one or more subregulations, subrules or subclauses the original regulation, rule or clause becomes subregulation, subrule or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original regulation, rule or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any heading inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. This includes headings to Parts, Divisions or Subdivisions in a Schedule; Orders; Parts into which an Order is divided; clauses; regulations; rules; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A)(2B).

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- **Examples, diagrams or notes**

All examples, diagrams or notes included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any examples, diagrams or notes inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, form part of that Statutory Rule. See section 36(3A).

- **Punctuation**

All punctuation included in a Statutory Rule which is made on or after 1 January 2001 forms part of that Statutory Rule. Any punctuation inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. See section 36(3B).

- **Provision numbers**

All provision numbers included in a Statutory Rule form part of that Statutory Rule, whether inserted in the Statutory Rule before, on or after 1 January 2001. Provision numbers include regulation numbers, rule numbers, subregulation numbers, subrule numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of a Statutory Rule is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of a Statutory Rule. See section 36(3)(3D)(3E).

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2 Table of Amendments

This publication incorporates amendments made to the Circular Economy (Waste Reduction and Recycling) (Waste to Energy Scheme) Regulations 2023 by statutory rules, subordinate instruments and Acts.

Circular Economy (Waste Reduction and Recycling) (Waste to Energy Scheme)
Amendment Regulations 2024, S.R. No. 138/2024

Date of Making: 17.12.24

Date of Commencement: 17.12.24

3 Explanatory details

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 2024 is \$16.33. 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.