

# Circular Economy (Waste Reduction and Recycling) (Container Deposit Scheme) Regulations

## Exposure Draft

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Victoria

# **Circular Economy (Waste Reduction and Recycling) (Container Deposit Scheme) Regulations**

## **Exposure Draft**

### **Part 1—Preliminary**

#### **1 Objectives**

The objectives of these Regulations are to prescribe matters for the purposes of Part 6 of the **Circular Economy (Waste Reduction and Recycling) Act 2021**, including the following—

- (a) conditions of appointment of the Scheme Coordinator and network operators;
- (b) eligible containers and suitable eligible containers, including the factors that the Head, Recycling Victoria must consider when determining whether an eligible container is a suitable eligible container;
- (c) operation and performance requirements for network operators;

- (d) exempt beverages under the container deposit scheme;
- (e) labelling requirements for first suppliers under the container deposit scheme;
- (f) fees and application requirements;
- (g) the requirements for methodologies included in supply arrangements for determining amounts payable by first suppliers;
- (h) refund amounts for the redemption of suitable eligible containers;
- (i) identification requirements for persons redeeming suitable eligible containers;
- (j) factors that the Minister must consider when granting an exemption for the disposal of suitable eligible containers at a landfill site.

## **2 Authorising provision**

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

## **3 Commencement**

- (1) Subject to subregulations (2), (3) and (4), these Regulations come into operation on 16 September 2022.
  - (2) Part 5 and regulations 5, 6 and 7 come into operation on 1 March 2023.
  - (3) Part 6 and regulations 8, 9 and 11 come into operation on 1 July 2023.
  - (4) Regulations 12 and 13 come into operation on 1 July 2024.
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#### 4 Definitions

In these Regulations—

***aseptic pack or cask*** means a container designed to hold 1 litre or more of wine, a wine-based beverage or water and that is made wholly or in part of—

- (a) cardboard and plastic; or
- (b) cardboard and foil; or
- (c) cardboard, plastic and foil;

***cordial*** means a concentrated syrup that—

- (a) contains the following ingredients (whether or not it also contains other ingredients)—
  - (i) water;
  - (ii) any natural or artificial sweetener;
  - (iii) colouring (whether natural or artificial) or flavouring, or both; and
- (b) is intended to be diluted before consumption;

***donation partner*** means any of the following that is subject to a collection point arrangement or collection refund arrangement under section 90(1) of the Act—

- (a) a registered entity within the meaning of the Australian Charities and Not-for-profits Commission Act 2012 of the Commonwealth that carries out any activities in Victoria; or
- (b) a school within the meaning of the **Education and Training Reform Act 2006**; or

- (c) a sporting, community, educational or environmental body that—
  - (i) carries out any activities in Victoria; and
  - (ii) is established primarily for a charitable, community or educational purpose; and
  - (iii) does not carry out activities for profit or gain;

***flavoured milk*** means milk to which flavouring has been added;

***flavouring*** means any natural or artificial flavouring but does not include natural or artificial sweetener;

***glass bottle*** means a bottle that is wholly or partly made of glass;

***glass container*** means a container that is wholly or partly made of glass;

***major urban area*** means a part of Victoria categorised as "Major Cities of Australia" under the Remoteness Structure;

***milk*** means milk from a cow or other animal, liquid milk product, soy or another plant-based milk alternative, low fat milk and ultra-heat-treated (UHT) milk but does not include—

- (a) milk produced from milk concentrate or milk powder; or
- (b) a product made by fermenting milk or adding a culture to milk, including drinking yoghurt;

***mobile collection point*** means a refund collection point that does not have a fixed location;

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***network operation zone***, in relation to a network operator, means a geographic area in relation to which the network operator is appointed and in which the network operator must give effect to collection point arrangements and collection refund arrangements under a network operator agreement;

***pure spirituous liquor*** means—

- (a) an alcoholic beverage produced by distillation; or
- (b) a mixture of 2 or more alcoholic beverages produced by distillation;

***regional area*** means a part of Victoria categorised as "Inner Regional Australia" or "Outer Regional Australia" under the Remoteness Structure;

***registered health tonic*** means a liquid included in the Australian Register of Therapeutic Goods maintained under section 9A of the Therapeutic Goods Act 1989 of the Commonwealth that is supplied with a label or other accompanying document that—

- (a) states that the liquid is for medicinal purposes; and
- (b) specifies a recommended maximum dosage for the liquid;

***remote area*** means a part of Victoria categorised as "Remote Australia" or "Very Remote Australia" under the Remoteness Structure;

***Remoteness Structure*** means the *Australian Statistical Geography Standard (ASGS): Volume 5—Remoteness Structure*, published by the Australian Bureau of Statistics, dated July 2016 (Cat. No. 1270.0.55.005);

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***sachet*** means a container made wholly or in part of plastic or foil or both that is designed to hold 250 millilitres or more of wine;

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

***water*** means plain, still or carbonated spring water or mineral water, whether or not flavouring has been added;

***wine*** means a beverage that is produced using the fermentation of grapes and is not mixed with any beverage other than a grape product and includes non-alcoholic wine;

***wine-based beverage*** means a beverage that—

- (a) contains a mixture of wine and another beverage that is not a grape product;  
and
- (b) has an alcohol volume content of less than 10 per cent.



## **Part 2—Exempt beverages, eligible containers, refund amounts and refund markings**

### **5 Exempt beverages**

For the purposes of the definition of *beverage* in section 3(1) of the Act, the following are prescribed to be exempt beverages—

- (a) milk other than flavoured milk;
- (b) cordial;
- (c) concentrated fruit or vegetable juice (or a mixture of both concentrated fruit and vegetable juices) intended to be diluted before consumption;
- (d) registered health tonics.

### **6 Eligible containers**

(1) For the purposes of the definition of *eligible container* in section 3(1) of the Act, the following are prescribed not to be eligible containers—

- (a) a container designed to hold more than 3 litres of a beverage;
- (b) a container designed to hold less than 150 millilitres of a beverage;
- (c) a glass bottle or glass container designed to hold only a pure spirituous liquor, a distilled alcoholic beverage or wine;
- (d) a container designed to hold 1 litre or more of—
  - (i) flavoured milk; or
  - (ii) a beverage comprising of at least 90 per cent fruit juice or vegetable juice (or a mixture of both);

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- (e) an aseptic pack or a cask that is designed to hold one or more litres of water;
  - (f) a sachet;
  - (g) any other container designed with a ring-pull opening mechanism if the ring—
    - (i) is attached to the container when unopened; and
    - (ii) is detached from the container when opened.
- (2) A container (other than a container described in subregulation (1)(b), (f) or (g)) is an eligible container if it—
- (a) is designed to hold 1 litre or less of pure fruit or pure vegetable juice (or a mixture of both); or
  - (b) is designed to hold 1 litre or less of milk; or
  - (c) is designed to hold 3 litres or less of a fermented milk product; or
  - (d) is designed to hold 3 litres or less of carbonated soft drink; or
  - (e) is designed to hold 3 litres or less of non-carbonated soft drink; or
  - (f) is a container other than an aseptic pack or a cask designed to hold 3 litres or less of water; or
  - (g) is an aseptic pack or a cask that is designed to hold less than 1 litre of water; or
  - (h) is not made of glass and is designed to hold 3 litres or less of—
    - (i) an alcoholic beverage other than wine or a wine-based beverage; or
    - (ii) a pure spirituous liquor;
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- (i) is designed to hold 3 litres or less of—
  - (i) ale, beer or stout; or
  - (ii) any beverage that contains a mix of a spirituous liquor and another beverage, ingredient or flavouring.
- (3) For the purposes of subregulation (2), a container set out in that subregulation is an eligible container whether or not the container includes any closure, lid or cap that may be attached to the container.

#### **7 Refund amount**

For the purposes of the definition of *refund amount* in section 3(1) of the Act, the prescribed refund amount in relation to a suitable eligible container is 10 cents.

#### **8 Payment of refund amount**

- (1) A collection point operator may pay a refund amount to—
  - (a) a person redeeming a suitable eligible container; or
  - (b) a donation partner selected by the person redeeming a suitable eligible container.
- (2) A payment made to a person redeeming a suitable eligible container may be made—
  - (a) in cash or as an electronic funds transfer; or
  - (b) as a voucher that is exchangeable or redeemable for goods, services or cash subject to any terms and conditions specified in the voucher by the collection point operator.

## **9 Refund marking**

For the purposes of the definition of *refund marking* in section 3(1) of the Act, the prescribed marking or label is a marking or label that contains the following words and expressions in clear and legible characters—

"10c refund at collection depots/points in participating State/Territory of purchase".

## **Part 3—Scheme Coordinator**

### **10 Condition of appointment of Scheme Coordinator**

- (1) For the purposes of section 82(2)(c) of the Act, it is a prescribed condition that the Scheme Coordinator must notify the Minister of any adverse matter set out in subregulation (2) as soon as practicable after the Scheme Coordinator becomes aware, or reasonably should have been aware, of the matter.
- (2) For the purposes of subregulation (1), a matter is an adverse matter if it may significantly impact—
  - (a) the Scheme Coordinator's ability to enforce or give effect to any arrangement under a Scheme Coordinator agreement; or
  - (b) the Scheme Coordinator's ability to enforce or give effect to a performance target under a Scheme Coordinator agreement; or
  - (c) the Scheme Coordinator's ability to pay or receive any amount in an arrangement entered into under a Scheme Coordinator agreement; or
  - (d) the Scheme Coordinator's financial position or viability in a manner that may have a significant impact on the financial viability of the container deposit scheme; or
  - (e) public confidence in the container deposit scheme.

### **11 Content of annual assessment report**

- (1) For the purposes of section 87(2)(c) of the Act, the following, as they relate to the reporting period, are prescribed matters—
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- (a) the total revenue of the container deposit scheme, including all scheme contributions paid to the Scheme Coordinator, any interest gained or accrued on those contributions and any other source of revenue of the Scheme Coordinator;
  - (b) the total expense of the container deposit scheme, including—
    - (i) the total amount paid by the Scheme Coordinator to network operators; and
    - (ii) the total amount of network fees paid by the Scheme Coordinator to network operators; and
    - (iii) the total amount of refund amounts paid by the Scheme Coordinator to network operators; and
    - (iv) the total amount paid by the Scheme Coordinator to material recovery facilities; and
    - (v) any reimbursement to the Scheme Coordinator by a first supplier of an amount paid to the first supplier in accordance with a supply arrangement; and
    - (vi) any contribution costs paid to the Scheme Coordinator under a supply arrangement; and
    - (vii) the total sum of money paid to each network operator by reference to the network operation zone in which the network operator must give effect to a collection point arrangement or collection refund arrangement;
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- (c) the number of material recovery facilities that have been paid under a recovery arrangement;
  - (d) the number of supply arrangements in force;
  - (e) the number of suitable eligible containers subject to a supply arrangement;
  - (f) the total number of suitable eligible containers recovered;
  - (g) a description of any arrangements made by the Scheme Coordinator in relation to—
    - (i) the protection of commercially-sensitive or personal information provided to the Scheme Coordinator; or
    - (ii) governance and risk management; or
    - (iii) the prevention, detection and management of fraud, including any known incidents of fraud;
  - (h) a description of the Scheme Coordinator's performance against any performance target provided for in the Scheme Coordinator agreement and any strategies the Scheme Coordinator intends to implement to meet that performance target;
  - (i) the number and weight of suitable eligible containers collected, by reference to material type;
  - (j) the total number of fixed collection points and their locations;
  - (k) the total number and operating time of any mobile collection points;
  - (l) the total amount of refund amounts paid to donation partners.
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(2) The annual assessment report under section 87 of the Act must not disclose any confidential or commercially-sensitive information obtained by the Scheme Coordinator in preparing the report unless the disclosure is made in accordance with section 55(2) of the Act.

(3) In this regulation—

*reporting period* means—

- (a) in the case of the year in which the Scheme Coordinator is first appointed under section 82 of the Act, the period from that appointment until the end of the financial year during which the appointment occurs; and
- (b) each subsequent financial year following the period referred to in paragraph (a).



## Part 4—Network operators

### 12 Definitions

In this Part—

**population**, in relation to an area, means the total estimated resident population for the area on or after 30 March 2021, as specified in Regional Population 2019-20;

**Regional Population 2019-20** means Regional Population 2019-20, published by the Australian Bureau of Statistics, dated 30 March 2021;

**regional town** means an area in a regional area that is categorised under the Urban Area Structure as an Urban Centre and Locality (Major Urban, Other Urban or Bounded Locality) and has a population of not less than 750;

**remote town** means an area in a remote area that is categorised under the Urban Area Structure as an Urban Centre and Locality (Major Urban, Other Urban or Bounded Locality) and has a population of not less than 300;

**Urban Area Structure** means *Australian Statistical Geography Standard (ASGS): Volume 4—Significant Urban Areas, Urban Centres and Localities, Section of State*, published by the Australian Bureau of Statistics, dated July 2016 (Cat. No. 1270.0.55.004).

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### **13 Prescribed operation and performance requirements for network operators**

(1) For the purposes of section 88 of the Act, it is a prescribed operation and performance requirement for a network operator to ensure that, in each network operation zone in relation to which the network operator is appointed—

(a) the number of refund collection points operating in a major urban area in that network operation zone must not be less than the number calculated using the formula—

$$\frac{x}{14\,500} + 1$$

where—

**x** is the population of the major urban area; and

(b) the number of refund collection points operating in a regional town or remote town in that network operation zone must not be less than the number calculated using the formula—

$$\frac{x}{14\,500} + 1$$

where—

**x** is the population of the regional town or remote town; and

(c) any refund collection point operating in a regional area or remote area is located within 5 km of a regional town or a remote town; and

(d) any refund collection point open to the general public that is located in an area specified in column 1 of the table in this subregulation must be open for at least the corresponding hours specified in column 2 of

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the table, subject to any reduction of hours necessary to provide for a public holiday.

**Table 1**

<i>Column 1</i>	<i>Column 2</i>
Regional area	16 ordinary hours per week; 8 weekend hours per week
Remote area	8 ordinary hours per 2 week period; 8 weekend hours per 2 week period
Major urban area	27 ordinary hours per week; 8 weekend hours per week

(2) If a number calculated in accordance with subregulation (1)(a) or (b) is not a whole number, it may be rounded down to the nearest whole number.

(3) In this regulation—

*ordinary hour* means an hour occurring any time between 7 a.m. and 8 p.m. on a day other than a Saturday or Sunday;

*public holiday* means a day appointed as a public holiday under section 6 of the **Public Holidays Act 1993**;

*refund collection point* does not include a mobile collection point;

*weekend hour* means an hour occurring any time between 7 a.m. on a Saturday and 8 p.m. on the immediately following Sunday.

#### **14 Prescribed content of network operator agreement**

For the purposes of section 90(3)(b) of the Act, it is a prescribed requirement that the network operator must collect and retain, and disclose to the Minister, the following data and information—

- (a) the number of containers for which refund amounts have been claimed from the network operator;
- (b) the number of refund amount claims made at a refund collection point that is subject to a collection point arrangement entered into by the network operator;
- (c) the number of declarations requested by and provided under section 108 of the Act to a collection point operator that has entered into a collection point arrangement with the network operator;
- (d) in relation to a claim for a refund amount that is subject to section 108(3) of the Act made to a collection point operator that has entered into a collection point arrangement with the network operator—
  - (i) the declaration required under that section; and
  - (ii) the date on which the claim for a refund amount that is the subject of the declaration was made; and
  - (iii) the number of containers for which the collection point operator paid a refund amount in response to the claim, if any.

### **15 Conditions of appointment of network operators**

Subject to any direction given under section 92(1) or 93(1) of the Act, for the purposes of section 91(2)(c) of the Act, it is a prescribed condition that the network operator must give effect to the collection point arrangements and collection refund arrangements under a network operator agreement only in the network operation zones that are specified in the instrument of appointment.

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## Part 5—First suppliers

### 16 Criteria for eligible containers

- (1) For the purposes of the definition of *eligible container* in section 3(1) of the Act, in order to be an eligible container, a container must—
    - (a) on either the outside of the container or on an accompanying label that covers the container, bear—
      - (i) a GTIN barcode for that class of eligible containers; or
      - (ii) a product barcode for that class of eligible containers that—
        - (A) complies with the GS1 Standard;  
and
        - (B) does not duplicate any GTIN barcode or other product barcode;  
and
        - (C) is between 8 and 14 digits long;  
and
    - (b) in the case of a container sold in a multipack and not manufactured for individual sale, a barcode on the external multipack packaging that is unique to the multipack.
  - (2) A barcode required under subregulation (1) must be affixed on the eligible container or multipack (as appropriate) and be easily readable by a scanner when the container is empty.
  - (3) Nothing in this regulation limits any other markings on a label that may be used for the scanning of an eligible container in addition to the requirements set out in subregulations (1) and (2).
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(4) In this regulation—

***GS1 Standard*** means the *GS1 General Specifications*, published by GS1 AISBL, dated January 2022;

***GTIN barcode*** is a product barcode that contains Global Trade Item Number (GTIN) encoding and complies with the GS1 Standard.

**17 Methodology requirements for determining first supplier payments under supply arrangement**

For the purposes of section 81(2)(a)(ii) of the Act, the prescribed requirements for a methodology specified in a supply arrangement under the Scheme Coordinator agreement are that the methodology must determine the amounts payable by a first supplier—

- (a) by reference to the first supplier's supply of suitable eligible containers in Victoria in the month preceding the payment; or
- (b) by reference to the amount of suitable eligible containers that the first supplier has supplied in the first month in which it supplied those containers in Victoria.

**18 Prescribed fee for approval as suitable eligible container**

For the purposes of section 99(2)(b) of the Act, the prescribed fee is 7 fee units.

**19 Application for approval of a class of containers as suitable eligible containers**

An application by a first supplier for the approval of a class of eligible containers as suitable eligible containers must contain a statement that all the containers in that class—

- (a) contain the same beverage; and

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Part 5—First suppliers

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- (b) contain the same volume of that beverage;  
and
- (c) are made of the same material; and
- (d) have the same labels affixed to them; and
- (e) have the same first supplier.

## **Part 6—Enforcement and offences**

### **20 Prescribed form for applications for landfill disposal exemption**

For the purposes of section 101(2)(a) of the Act, an application is in the prescribed form if it is in the form of a signed declaration.

### **21 Prescribed information for application for landfill disposal exemption**

For the purposes of section 101(2)(b) of the Act, the following is prescribed information—

- (a) a statement that not disposing of the suitable eligible container at a landfill site is likely to pose a risk of harm to human health or the environment;
  - (b) any steps the applicant has taken to dispose of the suitable eligible container;
  - (c) evidence that methods other than disposal at landfill have been considered for the disposal of the suitable eligible container, and whether those methods of disposal are reasonably practicable in the circumstances;
  - (d) evidence that the circular economy hierarchy, as set out in section 8 of the Act, has been considered in relation to the disposal of the suitable eligible container;
  - (e) a statement from the applicant that the information provided in the application is true and correct to the best of the applicant's knowledge and belief.
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## **22 Prescribed circumstances for refusal of delivery or refund for container**

For the purposes of section 106(2)(d) of the Act, it is a prescribed circumstance if a collection point operator (including the operator of an automated collection point or a mobile collection point) reasonably believes that—

- (a) the container presented to that collection point for the purposes of claiming a refund amount—
  - (i) is damaged or contaminated with any substance such that the container is unsuitable for reuse or recycling; or
  - (ii) poses a serious risk to health or safety or to the proper operation of the refund collection point; or
  - (iii) is not a suitable eligible container; or
- (b) the container's barcode cannot be scanned; or
- (c) the label bearing the container's refund marking is in such a condition that it cannot be read.

## **23 Identification requirements for redemption of suitable eligible containers in bulk**

For the purposes of section 108(1) and (3) of the Act, the following is prescribed information in relation to a person who, within a single 24 hour period, presents more than 1500 suitable eligible containers to a refund collection point for the purpose of claiming a refund—

- (a) photographic identification that displays the name of the person;
  - (b) a declaration written and signed by the person that includes, in relation to each suitable eligible container, a statement that—
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- (i) the container was acquired in Victoria;  
and
  - (ii) the container was presented after the commencement of Part 6 of the Act;  
and
  - (iii) a refund amount has not previously been paid to the person for the container at any refund collection point;  
and
  - (iv) the information provided in the signed declaration is true and correct to the best of the person's knowledge and belief.
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## Endnotes

### Fee Units

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

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

The value of a fee unit for the financial year commencing 1 July 2021 is \$15.03 and for the financial year commencing 1 July 2022 is \$15.29. 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.

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### Table of Applied, Adopted or Incorporated Matter

The following table of applied, adopted or incorporated matter is included in accordance with the requirements of regulation 5 of the Subordinate Legislation Regulations 2014.

Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 4, definition of <b>Remoteness Structure</b>	<i>Australian Statistical Geography Standard (ASGS): Volume 5—Remoteness Structure</i> , published by the Australian Bureau of Statistics, dated July 2016 (Cat. No. 1270.0.55.005)	The whole
Regulation 13, definition of <b>Regional Population 2019-20</b>	<i>Regional Population 2019-20</i> , published by the Australian Bureau of Statistics, dated 30 March 2021	The whole

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<b>Statutory rule provision</b>	<b>Title of applied, adopted or incorporated document</b>	<b>Matter in applied, adopted or incorporated document</b>
Regulation 13, definition of <b><i>Urban Area Structure</i></b>	<i>Australian Statistical Geography Standard (ASGS): Volume 4—Significant Urban Areas, Urban Centres and Localities, Section of State</i> , published by the Australian Bureau of Statistics, dated July 2016 (Cat. No. 1270.0.55.004)	The whole
Regulation 17, definition of <b><i>GS1 Standard</i></b>	GS1 General Specifications published by GS1 AISBL, dated January 2022	The whole

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