

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

S.R. No. XX/2023

TABLE OF PROVISIONS

<i>Regulation</i>	<i>Page</i>
1 Objective	2
2 Authorising provision	2
3 Commencement	2
4 Principal Regulations	2
5 Heading to Part 2 amended	3
6 New regulation 5A inserted	3
7 New Part 3A inserted	3
8 New regulation 19 inserted	7
9 New Schedule 1 inserted	9
Endnotes	11

STATUTORY RULES 2023

S.R. No. XX/2023

Circular Economy (Waste Reduction and Recycling) Act 2021

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

The Governor in Council makes the following Regulations:

Dated:

Responsible Minister:

STEVE DIMOPOULOS
Minister for Environment

Clerk of the Executive Council

1 Objective

The objective of these Regulations is to amend the Circular Economy (Waste Reduction and Recycling) (Waste to Energy Scheme) Regulations 2023 to prescribe further 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 17 April 2024.

4 Principal Regulations

In these Regulations, the Circular Economy (Waste Reduction and Recycling) (Waste to Energy Scheme) Regulations 2023¹ are called the Principal Regulations.

5 Heading to Part 2 amended

In the heading to Part 2 of the Principal Regulations, after "Advanced recycling process," insert "cap limit,".

6 New regulation 5A inserted

After regulation 5 of the Principal Regulations insert—

"5A Cap limit

For the purposes of the definition of *cap limit* in section 74L of the Act, the prescribed maximum aggregate amount is 1 million tonnes per financial year."

7 New Part 3A inserted

After Part 3 of the Principal Regulations insert—

“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) 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);

(ii) any advice or information provided to the Head, Recycling Victoria by the

Authority in relation to the applicant regarding—

- (A) any non-compliance with any development licence in relation to the facility; and
 - (B) any non-compliance with any operating licence in relation to the facility; and
 - (iii) 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
 - (iv) any conditions the applicant is subject to in accordance with a permission in relation to the facility;
 - (c) 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 facility, and, if the application was determined, the details of the determination.
- (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.

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 30 000 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 30 000 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) 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) the extent to which the distribution of waste to energy facilities across Victoria, including their proximity to any waste feedstocks and offtake destinations for energy and other output products, enables the facility to contribute to an efficient waste infrastructure system;
- (f) 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, including the extent to which the facility can accept changing feedstocks;
- (g) the commercial and technical viability of the energy recovery process or technology proposed to be used at the facility;
- (h) 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 the facility;
- (i) any planned, completed or ongoing engagement activity with —
 - (i) the local community; and

- (ii) any relevant traditional owners;
- (j) any economic, social and environmental costs and benefits associated with the facility, including—
 - (i) any employment opportunities created by the construction and operation of the facility; and
 - (ii) the energy products that the facility will produce.
- (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.
- (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) For the purposes of section 74T(5)(c) of the Act, the prescribed matter is any condition to which any other waste to energy licence for the facility is subject."

8 New regulation 19 inserted

After regulation 18 of the Principal Regulations **insert**—

"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

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

- (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

- (d) a declaration in writing 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(3)(c) of the Act, the prescribed fee is 390 fee units.

(5) 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.

(6) 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.

(7) A notice under subregulation (6) 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."

9 New Schedule 1 inserted

After Part 4 of the Principal Regulations **insert**—

“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>

Circular Economy (Waste Reduction and Recycling) (Waste to Energy Scheme) Regulations 2023
S.R. No. XX/2023

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 Reg. 4: S.R. No. 33/2023.

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 2023 is \$15.90. 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.

DRAFT
