

Circular Economy (Waste Reduction and Recycling) (Mandatory Service Provision and Other Matters) Regulations 2024

[S.R. No. /2024]

The Governor in Council makes the following Regulations:

Dated: XXX

Responsible Minister:

STEVE DIMOPOULOS

Minister for Environment

Clerk of the Executive Council

Part 1—Preliminary

1 Objectives

The objectives of these Regulations are—

- (a) to prescribe the dates by which councils and Alpine Resorts Victoria must provide municipal residual waste and municipal recycling services; and
- (b) to prescribe matters relating to the appointment and functions of auditors under sections 172 and 173 of the **Circular Economy (Waste Reduction and Recycling) Act 2021**; and
- (c) to prescribe infringement offences and infringement penalties for the purposes of section 148 of that Act.

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 December 2024.

4 Definitions

In these Regulations—

owners corporation has the same meaning as in the **Owners Corporations Act 2006**;

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

Part 2—Mandatory service provision

5 Councils to provide municipal residual waste and municipal recycling services

- (1) For the purposes of section 60(1)(a), (b), (c) and (d) of the Act, the prescribed date is 1 July 2027.
- (2) A council is not required to provide a service specified in section 60(1)(a), (b), (c) or (d) on and from the date prescribed in subregulation (1) in respect of—
 - (a) land that does not contain a dwelling; or
 - (b) part of land containing a dwelling if that part is not used for residential purposes; or
 - (c) land on which a dwelling receives services in respect of municipal residual waste that are not provided under a contract with a council.

Example

A council is not required to provide a municipal residual waste service to a dwelling on land in its municipal district if services in respect of municipal residual waste are provided to the dwelling in accordance with a contract that council is not party to, such as a contract between an owners corporation and a company that provides waste collection services.

6 Alpine Resorts Victoria to provide municipal residual waste and municipal recycling services

- (1) For the purposes of section 60(2)(a), (b), (c) and (d) of the Act, the prescribed date is 1 July 2027.
- (2) Alpine Resorts Victoria is not required to provide a service specified in section 60(2)(a), (b), (c) or (d) on and from the date prescribed in subregulation (1) in respect of—
 - (a) land that does not contain a dwelling; or
 - (b) part of land containing a dwelling if that part is not used for residential purposes; or
 - (c) land on which a dwelling receives services in respect of municipal residual waste that are not provided under a contract with Alpine Resorts Victoria.

Example

Alpine Resorts Victoria is not required to provide a municipal residual waste service to a dwelling on land in an alpine resort if services in respect of municipal residual waste are provided to the dwelling in accordance with a contract that Alpine Resorts Victoria is not party to, such as a contract between another party and a company that provides waste collection services.

Part 3—Compliance and enforcement

7 Infringement offences and penalties

- (1) For the purposes of section 148(1) of the Act, an offence in Column 2 of Schedule 1 is prescribed as an infringement offence.
- (2) For the purposes of section 148(3) of the Act, the prescribed infringement penalty in respect of an infringement offence is the penalty specified in the corresponding entry of Column 3 of Schedule 1 in respect of that infringement offence.

8 Appointment of auditors

- (1) For the purposes of section 172(1)(b) of the Act, the prescribed class is any person who—
 - (a) is not employed by the Department; and
 - (b) has relevant professional qualifications and appropriate expertise in one or more of the following fields—
 - (i) auditing;
 - (ii) probity;
 - (iii) circular economy;
 - (iv) recycling;
 - (v) waste management;
 - (vi) environment protection;
 - (vii) accounting;
 - (viii) risk management;
 - (ix) fraud investigation;
 - (x) data security;
 - (xi) cyber security;
 - (xii) information security.
- (2) For the purposes of section 172(2)(e) of the Act, the Head, Recycling Victoria may vary, suspend or revoke an appointment if—
 - (a) in the opinion of the Head, Recycling Victoria, the auditor—
 - (i) is no longer required for the purpose for which they were appointed; or
 - (ii) is not adequately performing their functions in accordance with regulation 9; or
 - (iii) has failed to meet performance standards specified in the appointment; or
 - (b) there is a need to adjust or update any condition or limitation in the appointment, including but not limited to the scope of duties or the term of the appointment; or
 - (c) the auditor has contravened—
 - (i) the Act; or
 - (ii) the regulations; or
 - (iii) a condition or limitation of the auditor's appointment; or
 - (d) the auditor was an associate of a person who was undertaking an activity or who owned or occupied any part of a site that was the subject of an audit conducted by the auditor;
or

- (e) the auditor had a direct or indirect pecuniary or personal interest in any part of an activity or site that was the subject of an audit conducted by the auditor; or
 - (f) the auditor conducted an audit that involved the auditor reviewing—
 - (i) any aspect of work previously carried out by the auditor or an associate of the auditor; or
 - (ii) a statement or report previously prepared by the auditor or an associate of the auditor; or
 - (g) any other matter arises that the Head, Recycling Victoria considers to be relevant to the auditor's suitability for appointment.
- (3) If the Head, Recycling Victoria proposes to vary, suspend or revoke an appointment in accordance with subregulation (2), the Head, Recycling Victoria must give written notice to the auditor—
- (a) that the Head, Recycling Victoria intends to vary, suspend or revoke the auditor's appointment and of the reasons for the proposed variation, suspension or revocation; and
 - (b) that the auditor may make a submission to the Head, Recycling Victoria in relation to the proposed suspension or revocation within 28 days after receipt of the notice.
- (4) The Head, Recycling Victoria must not vary, suspend or revoke the appointment of an auditor unless the Head, Recycling Victoria—
- (a) has given written notice to the auditor in accordance with subregulation (3); and
 - (b) has given the auditor a reasonable opportunity to make submissions; and
 - (c) has taken into consideration any submissions made by the auditor.
- (5) If the Head, Recycling Victoria decides to suspend the appointment of an auditor, the Head, Recycling Victoria must give written notice to the auditor that the auditor's appointment is suspended—
- (a) for a specified period; or
 - (b) until the fulfilment of specified conditions set by the Head, Recycling Victoria; or
 - (c) until further notice from the Head, Recycling Victoria.
- (6) If the appointment of an auditor is suspended in accordance with subregulation (5)(b), the Head, Recycling Victoria must give written notice to the auditor that the auditor's appointment will be reinstated as soon as practicable after the Head, Recycling Victoria is satisfied that the auditor has fulfilled the specified conditions.
- (7) If the Head, Recycling Victoria decides to vary or revoke the appointment of an auditor, the Head, Recycling Victoria must give written notice to the auditor that the auditor's appointment has been varied or revoked and of the reasons for the variation or revocation.

9 Functions of an auditor

For the purposes of section 173(1)(b) of the Act, the following functions are prescribed—

- (a) conducting audits to determine compliance with the Act and regulations and service standards made under the Act;
- (b) conducting audits in relation to an agreement made under the Act;

- (c) investigating complaints made by a person or entity related to non-compliance with the Act or regulations or service standards made under the Act;
- (d) conducting visits to a place or location for the purposes of paragraphs (a), (b) and (c);
- (e) preparing and providing reports to the Head, Recycling Victoria on the findings of audits, including any non-compliance issues that were identified and any recommendations for improvement;
- (f) maintaining accurate and up-to-date records of audits, including documentation of the audit process, any non-compliance issues identified and any follow-up actions required.

DRAFT

Schedule 1—Infringement offences and infringement penalties

Regulation 7

Infringement offences and infringement penalties		
<i>Column 1 Item</i>	<i>Column 2 Prescribed infringement offence</i>	<i>Column 3 Infringement penalty</i>
1	An offence against section 29 of the Act	5 penalty units
2	An offence against section 55(1) of the Act	6 penalty units
3	An offence against section 73(2) of the Act	5 penalty units in the case of a natural person 25 penalty units in the case of a body corporate
4	An offence against section 74G(1) of the Act	2 penalty units in the case of a natural person 10 penalty units in the case of a body corporate
5	An offence against section 117(2) of the Act	12 penalty units in the case of a natural person 24 penalty units in the case of a body corporate
6	An offence against section 126(1) of the Act constituted by a failure to take action specified in an improvement notice in accordance with section 125(3)(d) of the Act that requires the person to whom the notice is issued to provide a report or other information to the Head, Recycling Victoria	6 penalty units in the case of a natural person 30 penalty units in the case of a body corporate
7	An offence against section 128(1) of the Act constituted by a failure to take action specified in a prohibition notice in accordance with section 127(3)(d) of the Act that requires the person to whom the notice is issued to provide a report or other information to the Head, Recycling Victoria	6 penalty units in the case of a natural person 30 penalty units in the case of a body corporate
8	An offence against section 152(3) of the Act	2 penalty units
9	An offence against section 153(2) of the Act	6 penalty units in the case of a natural person 30 penalty units in the case of a body corporate
10	An offence against section 155 of the Act	6 penalty units in the case of a natural person 30 penalty units in the case of a body corporate

11	An offence against section 160(2) of the Act	6 penalty units
12	An offence against section 162(2) of the Act	6 penalty units in the case of a natural person 60 penalty units in the case of a body corporate
13	An offence against section 163(3) of the Act	6 penalty units in the case of a natural person 60 penalty units in the case of a body corporate
14	An offence against section 170(3) of the Act	3 penalty units in the case of a natural person 15 penalty units in the case of a body corporate
15	An offence against regulation 8(1) of the Circular Economy (Waste Reduction and Recycling) (Risk, Consequence and Contingency Plans and Other Matters) Regulations 2023	6 penalty units in the case of a natural person 30 penalty units in the case of a body corporate
16	An offence against regulation 9(1) of the Circular Economy (Waste Reduction and Recycling) (Risk, Consequence and Contingency Plans and Other Matters) Regulations 2023	1 penalty unit in the case of a natural person 5 penalty units in the case of a body corporate

Endnotes

Penalty Units

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the **Sentencing Act 1991**. The amount of the penalty is to be calculated, in accordance with section 7 of the **Monetary Units Act 2004**, by multiplying the number of penalty units applicable by the value of a penalty unit.

The value of a penalty unit for the financial year commencing 1 July 2024 is \$197.59. The amount of the calculated penalty may be rounded to the nearest dollar.

The value of a penalty 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 penalty 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