

Queensland

Environmental Protection (Waste Management) Regulation 2000

EXTRACT:

Part 6B Used packaging materials

Division 1 Preliminary

Subdivision 1 General

66O Purpose of pt 6B

The purpose of this part is to give effect to, and enforce compliance with, the National Environment Protection (Used Packaging Materials) Measure dated 14 July 1999 made under the *National Environment Protection Council Act 1994* (Cwlth), the *National Environment Protection Council (Queensland) Act 1994*, and particular Acts of other States.

Subdivision 2 Interpretation

66P Definitions for pt 6B

In this part—

brand owner means—

- (a) for an imported product—the first person to sell it in Australia; or
- (b) for in-store packaging—a person who supplies it to a retailer; or
- (c) for plastic bags—
 - (i) a person who imports or manufactures them; or
 - (ii) a retailer who supplies them to consumers to transport, from the point of sale, products bought by the consumers from the retailer; or
- (d) otherwise—
 - (i) a person who owns, or is the licensee in Australia of, a trade mark under which a product is sold or otherwise distributed in Australia, whether the trade mark is registered or not; or
 - (ii) the franchisee in Australia of a business arrangement that allows a person to operate a business under the name of an already established business.

consumer packaging means packages made of any material, or combination of materials, for the containment, protection, marketing, or handling of retail consumer products.

consumer packaging material means a packaging product, whether made of a single or composite material, used to contain, handle, market or protect a consumer product sold by retail.

Example—

material for distribution packaging used to contain a consumer product sold by retail

covenant means—

- (a) the document called ‘The National Packaging Covenant 15 July 2005 to 30 June 2010’ dated July 2005, referred to in the measure mentioned in section 66O; and
- (b) the annexures and schedules to the document mentioned in paragraph (a).

in-store packaging means a container, of any material, supplied to a consumer at the point of sale of a product for the containment, protection, handling or carriage of the product.

Examples of in-store packaging—

- 1 plastic or paper carry bags
- 2 take-away food containers

kerbside recycling collection means collection from the roadside of commercial, domestic or industrial waste that has been separated for the purpose of recycling.

landfill means land used as a waste disposal site for lawfully putting solid waste on the land.

owner’s packaging see section 66S(2)(a).

plastic bags means lightweight (between 2g and 8g in weight), singlet-style, single-use high density polyethylene carry bags made to supply to consumers for them to transport goods purchased.

recycle, for consumer packaging or consumer packaging material, means to recover the packaging or material and use it as a raw material to produce other consumer packaging or consumer packaging material.

registered, for a trade mark, means registered under the *Trade Marks Act 1995* (Cwlth) as a trade mark.

sell includes—

- (a) exchange or supply; and
- (b) agree, offer or attempt to sell.

66Q General

Unless this regulation provides otherwise, expressions used in it that are defined under the measure mentioned in section 66O have the meaning given to them under the measure.

Division 2 Responsibilities of particular brand owners

Subdivision 1 Application

66R Application of div 2

- (1) This division applies to a brand owner other than a brand owner who—
 - (a) is a signatory to the covenant and complies with the covenant; or
 - (b) is not a signatory to the covenant but the chief executive is satisfied—
 - (i) the brand owner uses consumer packaging in which the brand owner’s products are sold in a way that achieves environmental outcomes at least

- equivalent to the environmental outcomes for the packaging under the covenant;
or
(ii) the brand owner's business has, in the most recent financial year, had a gross turnover of less than \$5m.
- (2) However, this division does not apply to a brand owner in relation to plastic bags if the chief executive is satisfied the brand owner—
- (a) is a retailer; and
 - (b) is complying with the plastic bag code of practice, whether or not the retailer is a signatory to that code.
- (3) In this section—
- plastic bag code of practice*** means—
- (a) until 31 December 2005—the document made by the Australian Retailers' Association called 'Australian Retailers Association Code of Practice for the Management of Plastic Bags' dated 8 October 2003, set out in schedule 7 of the covenant; or
 - (b) after 31 December 2005—any document, however called, made by the Australian Retailers' Association that deals with the managed reduction and recycling of plastic bags.

Subdivision 2 Action plans and record keeping

66S Action plans

- (1) The brand owner must—
- (a) prepare, maintain and implement an action plan that complies with subsections (2) to (4); and
 - (b) comply with the plan.
- Maximum penalty—20 penalty units.
- (2) The action plan must contain the following information—
- (a) how the brand owner intends to ensure consumer packaging in which the brand owner's products are sold (the ***owner's packaging***), or used consumer packaging that is substantially similar to the owner's packaging, is—
 - (i) recovered; and
 - (ii) reused, recycled or used for energy recovery;
 - (b) the quantity of each type of consumer packaging proposed to be—
 - (i) recovered; and
 - (ii) reused, recycled or used for energy recovery;
 - (c) how the brand owner intends to inform the public of the way in which the consumer packaging may be recovered.
- Maximum penalty—20 penalty units.
- (3) The quantity mentioned in subsection (2)(b) must consist of at least the following percentage of consumer packaging materials recovered by or for the brand owner—
- (a) for paper or cardboard packaging, other than prescribed paper or cardboard packaging—80%;
 - (b) for glass—60%;
 - (c) for steel—65%;
 - (d) for aluminium—75%;

- (e) for prescribed paper or cardboard packaging—25%;
 - (f) for each plastic that is high density polyethylene (HDPE), polyethylene terephthalate (PET) or polyvinyl chloride (PVC)—35%;
 - (g) for plastics, other than the plastics mentioned in paragraph (f)—25%.
- (4) The action plan must state—
- (a) that all consumer packaging materials to be recovered by or for the brand owner will be reused, recycled, or used for energy recovery in the following order (the ***preferred order***)—
 - (i) for re-use in the packaging of the brand owner’s own products;
 - (ii) for use within the State as a secondary resource;
 - (iii) for use within Australia as a secondary resource;
 - (iv) for export as a secondary resource; or
 - (b) if the brand owner considers it will be impracticable to reuse, recycle, or use for energy recovery the materials in the preferred order—
 - (i) reasons why the brand owner considers the preferred order impracticable; and
 - (ii) the order in which the materials will be reused, recycled, or used for energy recovery.
- (5) In this section—
- prescribed paper or cardboard packaging*** means packaging made of paper or cardboard that can not reasonably, practicably and to any significant extent, be reused, recycled or used for energy recovery or recovered for reuse, recycling or energy recovery.
- Examples of prescribed paper or cardboard packaging—*
waxed paper or cardboard, high-wet-strength cardboard
- secondary resource*** means a resource used or to be used—
- (a) to manufacture new consumer packaging or another product to replace raw or virgin materials; or
 - (b) for energy recovery.

66T Brand owner to keep information

- (1) The brand owner must, for each financial year, keep for at least 5 years from the end of the year—
- (a) the following information about each type of consumer packaging material used by the brand owner in the year—
 - (i) the number of consumer packaging items made from the type;
 - (ii) the total weight of the type sold in Australia; and
 - (b) the following information about consumer packaging material recovered by or for the brand owner in the year and reused, recycled or used for energy recovery—
 - (i) the total weight of the material;
 - (ii) how much of the material was reused or recycled in Australia;
 - (iii) how much of the material was exported for re-use or recycling;
 - (iv) how much of the material was used for energy recovery;
 - (v) the recovery rate of the material; and
 - (c) the weight of the consumer packaging material recovered by or for the brand owner in the year that was disposed of at a landfill.
- Maximum penalty—20 penalty units.

(2) The brand owner must, if asked by the chief executive, give the information mentioned in subsection (1) to the chief executive within 28 days after the day the chief executive asks for it.

Maximum penalty—20 penalty units.

(3) In this section—

recovery rate, for consumer packaging material, means the rate at which the consumer packaging material is recovered using the formula— where—

$$R = \frac{WR}{WS} \times 100\%$$

R means the recovery rate.

WR means the weight of the consumer packaging material recovered.

WS means the weight of the consumer packaging material sold in Australia.

66U Claiming exemption on ground of commercial confidentiality

(1) The brand owner may, by written notice given to the chief executive, claim information required to be given by the brand owner under section 66T(2) should be treated as confidential on the grounds of commercial confidentiality.

(2) The notice must contain the information necessary to enable the chief executive to decide the claim.

(3) The chief executive may, by written notice given to the brand owner, ask the brand owner to give the chief executive, in the reasonable period stated in the notice, further relevant information to enable the chief executive to decide the claim.

(4) A notice under subsection (3) must be accompanied by, or include, an information notice about the chief executive's decision to make the request.

66V Deciding claim for exemption on ground of commercial confidentiality

(1) The chief executive may grant the claim only if the chief executive reasonably believes the information would be exempt matter under the *Freedom of Information Act 1992*, section 45.¹⁷

¹⁷ *Freedom of Information Act 1992*, section 45 (Matter relating to trade secrets, business affairs and research)

(2) If the chief executive grants the claim, the brand owner is exempted from giving the information to the chief executive.

(3) The chief executive must give the brand owner written notice of the chief executive's decision on the claim.

(4) If the chief executive refuses to grant the claim, the notice must be an information notice about the decision to refuse the grant.

(5) Subsection (6) applies if the chief executive does not give the brand owner a notice about the chief executive's decision on the claim—

(a) within 60 days after the claim is made; or

(b) if the brand owner gave the chief executive further information under section 66U(3)—within 60 days after receiving the further information.

(6) The chief executive's failure to give the notice is taken to be a decision by the chief executive to refuse to grant the claim at the end of the relevant 60 days.

Subdivision 3 Compliance notices

66W Authorised person may give notice to comply

- (1) If an authorised person believes on reasonable grounds that the brand owner has contravened section 66S or 66T, the authorised person may give the brand owner a written notice under this section.
- (2) The notice must state—
 - (a) the act or omission comprising the contravention; and
 - (b) the action the brand owner may take to rectify the alleged contravention; and
 - (c) the day by which the brand owner must take the action.
- (3) The stated day must be at least 28 days after the notice is given.
- (4) A brand owner must comply with the notice unless the brand owner has a reasonable excuse for not complying with it.
Maximum penalty—20 penalty units.
- (5) A brand owner can not be prosecuted for an alleged contravention of section 66S or 66T unless the brand owner—
 - (a) is given a notice under subsection (1); and
 - (b) does not comply with the notice.

Division 3 Operators of kerbside recycling collection services to give information to chief executive

66X Local governments

- (1) This section applies to a local government if it operates a kerbside recycling collection service within its local government area.
- (2) The local government must, within 3 months after the end of each financial year in which the service operates, give to the chief executive the following information for the year—
 - (a) the number of residential and non-residential premises in the area;
 - (b) the number of residential and non-residential premises serviced by the kerbside recycling collection service;
 - (c) the participation rate for the service;
 - (d) the fee charged to each household for the service;
 - (e) the weight of each recyclable material collected;
 - (f) the weight of each recyclable material disposed of at a landfill.
- (3) In this section—

household, for a kerbside recycling collection service, includes residential premises and non-residential premises supplied with a container for the collection of recyclable material by the operator of the service.

participation rate, for a kerbside recycling collection service, means the number of households participating in the service expressed as a percentage of the number of households to whom the service is provided.

recyclable material means material reasonably able to be recovered, reprocessed and used as raw material.

66Y Other operators

(1) This section applies to a person, other than a local government, if the person operates a kerbside recycling collection service in a local government area.

(2) The person must, within 2 months after the end of each financial year in which the service operates, give the local government for the area the information mentioned in section 66X(2)(b) and (d) to (f).

Maximum penalty—20 penalty units.

(3) The local government must give the information to the chief executive within 28 days after receiving it.

Division 4 Expiry

66Z Expiry of pt 6B

This part expires on 1 July 2010.