

Authorised Version No. 005
**Circular Economy (Waste Reduction and
Recycling) (Container Deposit Scheme)
Regulations 2022**

S.R. No. 94/2022

Authorised Version incorporating amendments as at
1 November 2023

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Circular Economy (Waste Reduction and Recycling) (Container Deposit Scheme) Regulations 2022

S.R. No. 94/2022

Authorised Version incorporating amendments as at
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Part 1—Preliminary

1 Objective

The objective of these Regulations is to prescribe matters in relation to the container deposit scheme under Part 6 of the **Circular Economy (Waste Reduction and Recycling) Act 2021**.

Reg. 1
substituted by
S.R. No.
107/2023
reg. 5.

2 Authorising provision

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

3 Commencement

- (1) These Regulations, except Parts 2 and 5, come into operation on 27 September 2022.
- (2) Parts 2 and 5 come into operation on 1 March 2023.

4 Definitions

In these Regulations—

aseptic pack or cask means a container 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;

Reg. 4 def. of *donation partner* amended by S.R. No. 78/2023 reg. 4(1).

donation partner means any of the following that has, pursuant to any process set out in the Scheme Coordinator Agreement, a Network Operator Agreement or any scheme arrangement, elected to receive refunds on the nomination of a person redeeming a suitable eligible container—

- (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;
- (b) a school within the meaning of the **Education and Training Reform Act 2006**;
- (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;

GS1 Standard means the GS1 General Specifications, as published by GS1 AISBL from time to time;

Reg. 4 def. of **GS1 Standard** inserted by S.R. No. 107/2023 reg. 6(a).

GTIN barcode means a product barcode that contains Global Trade Item Number (GTIN) encoding and complies with the GS1 Standard;

Reg. 4 def. of **GTIN barcode** inserted by S.R. No. 107/2023 reg. 6(a).

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;

Reg. 4 def. of **mobile collection point** inserted by S.R. No. 107/2023 reg. 6(a).

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;

Reg. 4 def. of *pure spirituous liquor* revoked by S.R. No. 107/2023 reg. 6(b).

* * * * *

Reg. 4 def. of *refillable beverage container* inserted by S.R. No. 107/2023 reg. 6(a).

refillable beverage container means a container that is designed to be—

- (a) filled with a beverage and sealed, before the sale of the beverage; and
- (b) provided to a person for re-filling and re-sealing, after the beverage has been consumed;

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;

sachet means a container, commonly known as a sachet, made wholly or in part of plastic or foil or both;

small first supplier means a first supplier that—

- (a) has supplied fewer than 300 000 eligible containers in Victoria in the preceding financial year; or
- (b) is likely to supply fewer than 300 000 eligible containers in Victoria in the current financial year;

Reg. 4 def. of *small first supplier* inserted by S.R. No. 78/2023 reg. 4(2).

spirituous liquor means—

- (a) an alcoholic beverage, including a liqueur, that is produced by distillation; or
- (b) a mixture of 2 or more alcoholic beverages that are produced by distillation;

Reg. 4 def. of *spirituous liquor* inserted by S.R. No. 107/2023 reg. 6(a).

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 and refund amounts

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 spirituous liquor or wine;
- (d) a container designed to hold one litre or more of—
 - (i) flavoured milk; or
 - (ii) a beverage comprising of at least 90 per cent pure fruit juice or pure vegetable juice (or a mixture of both);

Reg. 6(1)(c)
amended by
S.R. No.
107/2023
reg. 7(1)(a).

- (e) an aseptic pack or a cask that is designed to hold one litre or more of water, wine or a wine-based beverage;
- (f) a sachet that is designed to hold 250 millilitres or more of wine;
- (g) an aluminium container designed with a detachable lid that has a ring-pull opening mechanism;
- (h) a refillable beverage container.

Reg. 6(1)(g)
substituted by
S.R. No.
107/2023
reg. 7(1)(b).

Reg. 6(1)(h)
inserted by
S.R. No.
107/2023
reg. 7(1)(b).

* * * * *

Reg. 6(2)(3)
revoked by
S.R. No.
107/2023
reg. 7(2).

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.

7A 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—

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

Reg. 7A
inserted by
S.R. No.
78/2023 reg. 5.

Part 3—Scheme Coordinator

8 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.

Reg. 8A
inserted by
S.R. No.
107/2023
reg. 8.

8A Content of annual assessment report

For the purposes of section 87(2)(c) of the Act, the prescribed matters are the following as they relate to the financial year of the assessment report—

- (a) the total revenue of the container deposit scheme, including—
 - (i) all scheme contributions paid to the Scheme Coordinator under any supply arrangement; and
 - (ii) any interest earned on those contributions; and
 - (iii) any other source of revenue of the Scheme Coordinator;
- (b) the total expenses 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 facility operators; and
 - (v) the total amount paid by the Scheme Coordinator to each network operator by reference to its network operation zone;
- (c) the number of material recovery facility operators that have been paid under a recovery arrangement;
- (d) the number of supply arrangements in force;
- (e) the number and weight of suitable eligible containers collected, by reference to material type;

- (f) 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;
- (g) a description of any known incidents of fraud;
- (h) for any performance target specified in the Scheme Coordinator agreement—
 - (i) a description of the Scheme Coordinator's performance; and
 - (ii) any strategies that the Scheme Coordinator intends to implement to meet that target in the future;
- (i) the total number of fixed collection points and their locations;
- (j) the total number and operating time of any mobile collection points;
- (k) the total number of donation partners that have received refund amounts and the total of those refund amounts;
- (l) material sales information provided by network operators to the Scheme Coordinator, including—
 - (i) the weight (in tonnes) of suitable eligible containers sold (in total and by material type); and

- (ii) the weight (in tonnes) of suitable eligible containers sold outside Victoria (in total, by material type and by jurisdiction); and
- (iii) the recycling process applied to the material after sale, including the end product of that recycling process.

Part 4—Network operators

9 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.

10 Condition 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.

Part 5—First suppliers

Reg. 11
substituted by
S.R. No.
107/2023
reg. 9.

11 Conditions of approval of an eligible container as a suitable eligible container

For the purposes of section 99(3)(a) of the Act, the prescribed conditions are the following—

- (a) the container must display on its outside or on a label that covers the container (in addition to anything else that may be used to scan the container)—
 - (i) a GTIN barcode; or
 - (ii) a product barcode 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;
- (b) the barcode displayed in accordance with paragraph (a) must be easily readable by a scanner;
- (c) if the container is manufactured for sale in a multipack and not for individual sale, the external packaging of the multipack must display a barcode unique to the multipack;
- (d) the approval applies only to containers that—
 - (i) are of identical volume; and
 - (ii) are made of identical material; and
 - (iii) are designed to contain the same beverage; and
 - (iv) display the same barcode.

12 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) at a level that will maintain sufficient scheme liquidity over time to allow the Scheme Coordinator to pay scheme costs as and when they fall due; and
- (b) by reference to the first supplier's supply of suitable eligible containers in Victoria; and
- (c) in a manner that allows a small first supplier to elect to make payments under the supply arrangement on a quarterly or monthly basis.

Reg. 12(a)
substituted by
S.R. No.
78/2023 reg. 6.

Reg. 12(b)
substituted by
S.R. No.
78/2023 reg. 6.

Reg. 12(c)
inserted by
S.R. No.
78/2023 reg. 6.

* * * * *

Reg. 13
revoked by
S.R. No.
91/2023 reg. 3.

* * * * *

Reg. 14
amended by
S.R. No.
78/2023 reg. 7,
revoked by
S.R. No.
107/2023
reg. 10.

Reg. 15
inserted by
S.R. No.
78/2023 reg. 8.

15 Notification of intent to supply an eligible container by the first supplier

For the purposes of section 98(1) of the Act, a person is required to notify the Head, Recycling Victoria if the person—

- (a) manufactures a beverage in an eligible container in Victoria for sale or supply in Victoria; or
- (b) causes to be transported into Victoria a beverage in an eligible container for sale or supply in Victoria.

Part 6—Disposal of suitable eligible containers

Pt 6 (Heading and reg. 16) inserted by S.R. No. 107/2023 reg. 11.

16 Landfill disposal exemptions

Reg. 16 inserted by S.R. No. 107/2023 reg. 11.

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

- (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) the steps that the applicant has already taken to dispose of the suitable eligible container;
- (c) evidence that methods of disposal other than disposal at a landfill site have been considered, including 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 disposal of the suitable eligible container;
- (e) 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.

Pt 7 (Heading and regs 17–19) inserted by S.R. No. 107/2023 reg. 11.

Part 7—Enforcement and offences

Reg. 17 inserted by S.R. No. 107/2023 reg. 11.

17 Circumstances to refuse delivery of or refund for container

For the purposes of section 106(2)(d) of the Act, the prescribed circumstances are the following—

- (a) that the collection point operator reasonably believes that—
 - (i) the container is damaged or contaminated with any substance such that it is unsuitable for reuse or recycling; or
 - (ii) the container poses a serious risk to health or safety or to the proper operation of the refund collection point; or
 - (iii) the container is not a suitable eligible container; or
 - (iv) the container's barcode is in such a condition that it cannot be scanned; or
 - (v) the container's refund marking is in such a condition that it cannot be read;
- (b) that the collection point operator—
 - (i) pays the refund amount to a donation partner nominated by the person; or
 - (ii) gives the person a voucher that is equivalent to the refund amount and exchangeable or redeemable for goods, services or cash on the terms and conditions specified by the collection point operator in the voucher.

18 Manner of payment

For the purposes of section 106(5)(a) of the Act, electronic funds transfer is a prescribed manner.

Reg. 18
inserted by
S.R. No.
107/2023
reg. 11.

19 Refund declarations and proof of identity

- (1) For the purposes of section 108(1) and (3) of the Act, the prescribed information is a declaration in writing, signed by the person, confirming that—
- (a) all suitable eligible containers presented by the person were acquired in Victoria on or after 1 November 2023; and
 - (b) no refund amount has previously been paid to the person for the containers at any refund collection point; and
 - (c) the information provided is, to the best of the person's knowledge, true and correct.
- (2) For the purposes of section 108(3)(a) and (b) of the Act, the prescribed number is 1500.
- (3) For the purposes of section 108(3)(b) of the Act, the prescribed period is 24 hours.

Reg. 19
inserted by
S.R. No.
107/2023
reg. 11.

Endnotes

1 General information

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

The Circular Economy (Waste Reduction and Recycling) (Container Deposit Scheme) Regulations 2022, S.R. No. 94/2022 were made on 27 September 2022 by the Governor in Council under section 183 of the **Circular Economy (Waste Reduction and Recycling) Act 2021**, No. 55/2021 and comes into operation as follows:

Regulations 1–4, 8–10 on 27 September 2022: regulation 3(1);
regulations 5–7, 11–14 on 1 March 2023: regulation 3(2).

The Circular Economy (Waste Reduction and Recycling) (Container Deposit Scheme) Regulations 2022 will sunset 10 years after the day of making on 27 September 2032 (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).

- **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).

Circular Economy (Waste Reduction and Recycling) (Container Deposit Scheme) Regulations 2022
S.R. No. 94/2022
Endnotes

2 Table of Amendments

This publication incorporates amendments made to the Circular Economy (Waste Reduction and Recycling) (Container Deposit Scheme) Regulations 2022 by statutory rules, subordinate instruments and Acts.

Circular Economy (Waste Reduction and Recycling) (Container Deposit Scheme) Amendment Regulations 2023, S.R. No. 78/2023

Date of Making: 8.8.23

Date of Commencement: 8.8.23

Circular Economy (Waste Reduction and Recycling) (Container Deposit Scheme) Further Amendment Regulations 2023, S.R. No. 91/2023

Date of Making: 29.8.23

Date of Commencement: 29.8.23

Circular Economy (Waste Reduction and Recycling) (Container Deposit Scheme) Amendment (Miscellaneous) Regulations 2023, S.R. No. 107/2023

Date of Making: 24.10.23

Date of Commencement: 1.11.23: reg. 3

3 Explanatory details

Table of Applied, Adopted or Incorporated Matter

The following table of applied, adopted or incorporated matter was included in S.R. No. 94/2022 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 11, definition of <i>GS1 Standard</i>	GS1 General Specifications published by GS1 AISBL, dated January 2022	The whole

Table of Applied, Adopted or Incorporated Matter

The following table of applied, adopted or incorporated matter was included in S.R. No. 107/2023 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 6(a), which inserts a definition of <i>GS1 Standard</i> in regulation 4 of the Principal Regulations	GS1 General Specifications, version 23.0, published by GS1 AISBL in January 2023	The whole