

**Regulated container supply
approval guidelines for the
*Environment Protection (Beverage
Containers and Plastic Bags) Act
2014***

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This guideline is intended to assist applicants in completing the Application for supply approval form available at www.ntepa.nt.gov.au

1 Introduction

The Container Deposit Scheme (CDS) came into operation in the Northern Territory on 3 January 2012. The Northern Territory Environment Protection Authority (NT EPA) administers the CDS under the *Environment Protection (Beverage Containers and Plastic Bags) Act 2014* (the Act).

Under the CDS, a 10 cent refund (the refund amount) is available to consumers for certain empty beverage containers (approved containers) that are purchased in the Territory on or after 3 January 2012. In order for the refund amount to be claimed, empty approved containers must be delivered to an approved collection depot.

Operators of approved collection depots, who accept delivery of empty approved containers and pay the refund amount for the containers to the persons delivering them, may then deliver the containers to a CDS coordinator and may claim reimbursement of the refund amount and reasonable handling costs.

A CDS coordinator is a person who, whether personally or through an agent:

- a) coordinates the activities of CDS participants under the CDS; and
- b) collects, handles and delivers for reuse, recycling or other appropriate disposal, approved containers received from collection depots.

Further information about the role of collection depots and CDS coordinators is available from www.ntepa.nt.gov.au

2 Beverage containers subject to the CDS

From 3 January 2012, the supply to a beverage retailer or the sale by a beverage retailer, of a beverage in a regulated container in the Territory is prohibited unless the container is an approved container.

For the purposes of the CDS, a container is one that is made to contain a beverage and, when filled with the beverage, is sealed for storage, transport and handling before its sale or delivery for the use or consumption of its content. A beverage means a liquid intended for human consumption by drinking. However, certain liquids will be declared not to be beverages under the *Environment Protection (Beverage Containers and Plastic Bags) Regulations 2014* (the Regulations).

Certain containers will be exempt from the operation of the CDS under the Regulations due to the beverage contents or container capacity.

An approved container means a regulated container to which the CDS applies:

- a) for which a supply approval is in force; and
- b) that bears the approved refund marking.

A supply approval means an approval under the Act to supply regulated containers (see information below).

The approved refund marking for a regulated container means a marking or labelling about the refund amount prescribed by regulation for the container (see information below).

A list of the kinds of containers and beverages to which the Act applies can be accessed from www.ntepa.nt.gov.au

3 Label requirements for approved containers

In order for a regulated beverage container to be an approved container, it must bear the approved refund marking.

In accordance with the Act and Regulations, the approved refund marking for a regulated container is a mark or label that clearly and legibly states:

10c refund at SA/NT collection depots in State/Territory of purchase

or

10c refund at collection depots when sold in NT

Note: “SA” and “NT” or “South Australia” and “Northern Territory” are permitted, although should be consistent within the same refund marking.

4 Applications for supply approval

Applications for supply approval must be made in the approved form to the Northern Territory Environment Protection Authority (NT EPA) and must be accompanied by a waste management arrangement (WMA) and additional information to enable the NT EPA to decide the application.

The application for a supply approval can be made by a manufacturer, distributor or beverage retailer of containers. Under the Act, a manufacturer includes a person who fills or imports containers for sale in the Territory.

In the case of supply approvals, the approved form is an electronic form that links to a database ‘NT Container Supply Approval Registry’ maintained by the NT EPA to assist applicants by allowing applications to be made electronically through a secure internet portal.

The database and further information about it are available from: www.containerapprovals.nt.gov.au.

To access the database, you will require a username and password, which can be obtained by contacting 1800 752 632 or containerdeposit@nt.gov.au

5 Waste management arrangements

In assessing an application for supply approval, the NT EPA must consider whether there is an approved waste management arrangement (WMA) in place. Under section 11 of the Act, a WMA is an arrangement is a written arrangement between CDS participants for the:

- collection, sorting, aggregation and transport of empty containers; and
- reuse, recycling or other appropriate disposal of empty containers
- minimisation of the handling and sorting of containers
- payments by a supplier to a CDS coordinator in relation to the containers accepted by the coordinator.
- a process for resolving disputes between the parties in the arrangement
- other matters as prescribed by regulation.

The NT EPA must be satisfied that:

- a) the container material (including the label) is suitable for recycling, reuse or other disposal considered appropriate by the NT EPA; and
- b) the way the refund marking is going to be applied to the containers is not likely to render the containers unsuitable for recycling, reuse or other disposal considered appropriate by the NT EPA.

CDS participants are:

- a) a CDS coordinator or an operator of a collection depot;
- b) a manufacturer, distributor or beverage retailer of regulated containers;
- c) others carrying out activities relating to the collection, reuse, recycling or other appropriate disposal of regulated containers.

6 Granting an approval

Applicants will be notified of the outcome of their application for supply approval in writing.

7 Conditions of a supply approval

Once an approval is issued, a number of conditions are applied that a holder must comply with.

- An approval requires the holder to have in place an approved WMA.
- Containers listed in the approval must bear the approved refund marking:
- The approval holder will provide barcode data to the CDS coordinator with whom the WMA relates for the containers in the approval that display a barcode, and are for sale in the Territory.
- Under section 24A the approval holder will give the CDS coordinator with whom the WMA relates the total number of approved containers sold in the Territory during the quarter by material type within 21 days after the end of the quarter.
- Within 7 days of any of the holder's address or contact details changing, the holder of this approval must notify the NT EPA in writing of those changes in accordance with section 24A.
- The holder of the approval may be required, by reasonable written notice by the NT EPA, to meet with the NT EPA to review the approval or the approval holder's CDS activities.

Section 24A – Conditions of a supply approval

For those approved containers that display a barcode and are for sale in the Territory, suppliers will be required to provide CDS coordinators with whom they have an approved supplier arrangement, the barcodes for those approved containers (a supplier barcode document). Suppliers are only required to provide barcode data for those products that contain a barcode and are actually on sale to the NT public. This will enable CDS participants to make use of sorting technology that utilises barcodes to avoid manual sorting and improve efficiencies in the scheme

Suppliers are required to provide the CDS coordinator with whom they have an approved supplier arrangement, the total number of aggregated approved containers by material type that have been sold in the NT during the immediately preceding quarter (a supplier sales document) within 21 days of the end of each quarter. The sharing of this information will enable the market share of containers sold in the NT to be calculated for the purpose of establishing the proportion of redeemed containers and their associated handling fee, transportation costs and proceeds of sale attributable to coordinators.

8 Important information regarding a supply approval

The approval will remain in force for the period stated in it, which will not exceed 5 years (section 26 of the Act).

An approval is not transferable by the holder of the approval (section 28 of the Act).

The NT EPA may vary conditions of an approval if the NT EPA becomes aware of information that, if that information had been known when the approval was granted, the NT EPA would have imposed conditions or different conditions on the approval (section 30 of the Act).

The holder of an approval may apply to the NT EPA for the variation of conditions of the approval. Such an application must be in the approved form and accompanied by sufficient information to enable the NT EPA to decide the application (section 31 of the Act).

It is an offence against section 42 of the Act for the holder of an approval to engage in conduct that results in a contravention of a condition of the approval. The maximum penalty for doing so is 100 penalty units (currently \$14 400).

The holder of an approval must keep records of the holder's CDS activities in the approved form (section 43 of the Act). The maximum penalty for failing to do so is 20 penalty units (currently \$2 880).

The holder of an approval must give the NT EPA an annual return in the approved form each year before 1 September (section 44 of the Act). The maximum penalty for failing to do so is 20 penalty units (currently \$2 880).

An approval may be suspended or cancelled on any of the following grounds:

- a) the holder of the approval has contravened a provision of the Act;
- b) the holder of the approval has failed to comply with the WMA applying to the holder's approval and it is necessary to suspend or cancel the approval to achieve the objects of the Act;
- c) the approval was granted because of a materially false or misleading representation; or

d) the NT EPA becomes aware of information that, if it had been known when the application for the approval or its renewal was granted, the NT EPA would have refused the application.

9 Requirements under the Act

It is an offence against section 13 of the Act for a person to supply a beverage in a regulated container to a beverage retailer for sale by the retailer unless the container is an approved container. The maximum penalty for doing so is 400 penalty units (currently \$54 800).

Further, it is an offence against section 14 of the Act for a beverage retailer to sell a beverage in a regulated container unless the container is an approved container. The maximum penalty for doing so is 400 penalty units (currently \$63 360).

A beverage retailer is a person whose business is, or includes, selling a beverage for the use or consumption of the beverage. A beverage retailer includes a person who is the owner of a vending machine used to sell a beverage unless the owner has let out the machine to another person (the hirer) and, if so, the hirer is a beverage retailer.

For the purposes of the Act, “sell” includes:

- a) supply on a gratuitous basis for commercial promotional purposes; and
- b) offer or display for sale or such supply.

10 Fees

There is currently no fee to apply for a supply approval in the NT.

11 Further Information

The Act can be viewed on the internet at www.ntepa.nt.gov.au

For general enquiries, please contact:

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