

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Industry and Science

*Mutual Recognition Act 1992*

*Mutual Recognition Legislation Amendment (Tasmanian Container Deposit Scheme)  
Regulations 2023*

### **Purpose and Operation**

The *Mutual Recognition Act 1992* (the Act) gives effect to the mutual recognition principles adopted by the Commonwealth and State and Territory Governments of Australia relating to the sale of goods and the registration of occupations. By way of example, with respect to goods, the mutual recognition principles apply such that a good that can be sold legally in Victoria may be imported and sold legally in Tasmania despite the regulatory standards that would otherwise apply to the good in Tasmania.

The Act enshrines the principle that goods legally sold in one jurisdiction can be legally sold in the others, without having to meet further requirements imposed by individual jurisdictions (where they differ in regulatory requirements). The Act also provides for exceptions to the mutual recognition principle, as well as provisions for permanent and temporary exemptions from the Act so that goods can be exempt from the Act. Schedule 2 of the Act lists laws relating to goods that are permanently exempt from the operation of the Act.

The *Mutual Recognition Legislation Amendment (Tasmanian Container Deposit Scheme) Regulations 2023* (the Regulations) amend Schedule 2 of the Act to permanently exempt the *Container Refund Scheme Act 2022* (Tas.) (the Container Refund Act), which establishes the Tasmanian Container Deposit Scheme (the Scheme) and any regulations or other instruments made under it, to the extent that they relate to the Scheme established by Part 2, from the operation of the Act.

The Container Refund Act received Royal Assent on 29 March 2022. The Container Refund Act will commence on a date to be proclaimed by the Governor which is expected to be in late 2023. The Scheme will play an important role in supporting the reduction of waste, boosting of recycling towards a ‘circular economy’ and improvement to the health of the environment in Tasmania.

Under the Scheme, eligible containers for sale in Tasmania will need to display the prescribed details and be approved by the scheme coordinator. Each approved beverage container can be exchanged for a 10-cent refund at various container refund points throughout Tasmania as an incentive for consumers to return them. Approved containers would then be sent to a material recovery facility to be sorted and prepared for recycling. All eligible containers subject to a refund must be recycled and cannot be directed to landfill, with a penalty imposed for breaching this.

The Scheme is a split-responsibility governance model with a scheme coordinator, responsible for the administration and financial management of the Scheme, and a network operator, responsible for managing the network of refund points.

Amendment to the Act means that beverage containers imported into Tasmania from other States and Territories will have to comply with the Scheme when it commences in late 2023.

Further details of the Regulations are outlined in [Attachment A](#).

### **Authority**

Subsection 47(1) of the Act provides that the Governor-General may make regulations amending the Schedules of the Act. In accordance with subsection 47(2), no such regulation may be made unless the designated person for each of the participating jurisdictions has published a notice in the official gazette of the jurisdiction setting out the terms of the proposed regulation and requesting that it be made. This condition has been met in respect to these Regulations as at 24 November 2023.

### **Consultation**

The Regulations implement the decision of all jurisdictions to permanently exempt the Scheme from the operation of the Act.

The Department of Industry, Science and Resources consulted closely with the Tasmanian Government, the Commonwealth Department of the Prime Minister and Cabinet and with all jurisdictions on the gazettal of the Regulations.

### **Regulatory Impact**

As part of this process, the Tasmanian Government developed a Regulatory Impact Statement (2021) which has been approved by the Office of Impact Analysis. The Regulatory Impact Statement (Office of Best Practice Regulation ID 44706) is included at the end of this Explanatory Statement.

### **Statement of Compatibility with Human Rights**

A Statement of Compatibility with Human Rights is set out in [Attachment B](#).

**Details of the Mutual Recognition Legislation Amendment (Tasmanian Container Deposit Scheme) Regulations 2023**

**Section 1 – Name of Instrument**

This section provides that the title of the Instrument is the *Mutual Recognition Legislation Amendment (Tasmanian Container Deposit Scheme) Regulations 2023*.

**Section 2 – Commencement**

This section provides that the Regulations commence on the later of:

- (a) the start of the day after the Instrument is registered; and
- (b) immediately after the commencement of Part 2 of the *Container Refund Scheme Act 2022* (Tas.).

However, the provisions in Schedule 1 do not commence at all if the event mentioned in paragraph (b) does not occur.

**Section 3 – Authority**

This section provides that the Regulations are made under section 47 of the Act.

**Section 4 – Repeal of this Instrument**

This section provides that the Instrument is repealed on the day after Schedule 1 commences.

**Section 5 – Schedules**

This section provides a machinery clause that enables Schedule 1 to amend the Act and to operate according to its terms.

**Schedule 1 – Amendments**

**Item 1 – At the end of Schedule 2**

Item 1 of Schedule 1 amends Schedule 2 of the Act to permanently exempt the Scheme from the Act by inserting both of the following at clause 38:

- (a) the *Container Refund Scheme Act 2022* (Tas.);
- (b) regulations or other instruments made under that Act, to the extent that they relate to the container deposit scheme established by Part 2 of that Act.

## **Statement of Compatibility with Human Rights**

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

*Mutual Recognition Legislation Amendment (Tasmanian Container Deposit Scheme) Regulations 2023*

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Overview of the Legislative Instrument**

The purpose of the *Mutual Recognition Legislation Amendment (Tasmanian Container Deposit Scheme) Regulations 2023* (the Regulations) is to permanently exempt the *Container Refund Scheme Act 2022* (Tas.), which establishes the Tasmanian Container Deposit Scheme (the Scheme) and any regulations or other instruments made under it, to the extent that they relate to the Scheme established by Part 2 of that Act, from the operation of the *Mutual Recognition Act 1992*.

The purpose of the Scheme is to reduce waste, incentivise recycling and improve the environment in Tasmania. The Scheme prescribes that all containers subject to a refund must be recycled and cannot be directed to landfill, with a penalty applied for breaching this. This means that in order to obtain approval to supply a beverage in Tasmania the relevant container is required to bear the approved refund marking after the transition date. Consumers will get a 10-cent refund when they take an empty eligible container to designated refund points.

### **Human rights implications**

These Regulations do not engage any of the applicable rights or freedoms.

### **Conclusion**

These Regulations are compatible with human rights as they do not raise any human rights issues.

**The Hon Ed Husic MP**

**Minister for Industry and Science**