

# Mutual Recognition (Queensland) (NSW Container Deposit Scheme) Amendment Regulation 2017

Explanatory notes for SL 2017 No. 210

made under the

*Mutual Recognition (Queensland) Act 1992*

## General Outline

### Short title

Mutual Recognition (Queensland) (NSW Container Deposit Scheme) Amendment Regulation 2017

### Authorising law

Sections 5(1)(b), 5(3) and 6 of the *Mutual Recognition (Queensland) Act 1992* and section 20A of the *Statutory Instruments Act 1992*.

### Policy objectives and the reasons for them

The regulation amends the *Mutual Recognition (Queensland) Regulation 2009*. The objective of the regulation is to approve the terms of amendments to the *Mutual Recognition Act 1992 (Cth)* (Commonwealth Act), as required under sections 5(1)(b) and 6 of the *Mutual Recognition (Queensland) Act 1992* (Queensland Act).

The amendments to the Commonwealth Act will permanently exempt certain parts of the *Waste Avoidance and Resource Recovery Amendment Act 2001 (NSW)* and regulations made under that Act (NSW Container Deposit Laws) from the application of the Commonwealth Act.

Section 5(1)(b) of the Queensland Act referred legislative power to the Commonwealth Parliament to make amendments to the Commonwealth Act "but only in terms which are approved by the designated person for each of the then participating jurisdictions". Section 5(3) provides that the Governor is the designated person for Queensland.

Section 6 of the Queensland Act provides that "[f]or the purposes of section 5(1)(b), the Governor may, by proclamation, approve the terms of amendments of the Commonwealth Act". Section 20A of the *Statutory Instruments Act 1992* provides that if an Act authorises or requires the Governor to make subordinate legislation for a matter

other than by regulation, the Governor in Council may make provision for the matter by regulation made under that Act.

The *Mutual Recognition (Queensland) Regulation 2009* was made to approve amendments to the Commonwealth Act to permanently exempt certain legislation of South Australia and was amended in 2013 to approve amendments to the Commonwealth Act to permanently exempt the Northern Territory container deposit scheme legislation. It is appropriate that the approval of the amendments to the Commonwealth Act to permanently exempt the relevant parts of the NSW Container Deposit Laws should also be included in the *Mutual Recognition (Queensland) Regulation 2009*.

## **Achievement of policy objectives**

The regulation will approve the terms of the amendments to the Commonwealth Act, as required under section 5(1)(b) of the Queensland Act.

## **Consistency with policy objectives of authorising law**

The regulation is consistent with the objectives of the Queensland Act. The regulation enables the enactment of amendments to the Commonwealth Act by the Governor-General, therefore maintaining the uniformity and integrity of the mutual recognition arrangements under that Act.

## **Inconsistency with policy objectives of other legislation**

The regulation is not inconsistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The NSW Container Deposit Laws will result in increased compliance costs for beverage manufacturers and importers in Queensland who sell products covered by the laws in NSW. Key costs relate to the approval of beverage containers and labels and contributions to scheme costs. An examination of the likely impacts of the NSW Container Deposit Laws indicates that the laws are unlikely to result in significant adverse impacts for Queensland.

## **Consistency with fundamental legislative principles**

The regulation is consistent with fundamental legislative principles.

The regulation is authorised under the Queensland Act and the *Statutory Instruments Act 1992*.

The regulation is consistent with the policy objectives of the authorising law and only amends another regulation.

## **Consultation**

The Department of the Premier and Cabinet and Queensland Treasury have agreed to the proposed course of action.

The Office of Best Practice Regulation (OBPR) was consulted regarding the need to prepare a Regulatory Impact Statement (RIS). OBPR advised that a RIS was not required on the basis that the proposed regulation was unlikely to have significant adverse impacts on Queensland.

OQPC was consulted about the requirements for making the regulation under the Queensland Act and the Commonwealth Act.