

Trans-Tasman Mutual Recognition (Queensland) Temporary Exemptions Regulation 2018

Explanatory notes for SL 2018 No. 224

made under the

Trans-Tasman Mutual Recognition (Queensland) Act 2003

General Outline

Short title

Trans-Tasman Mutual Recognition (Queensland) Temporary Exemptions Regulation 2018
(the regulation)

Authorising law

Section 8 of the *Trans-Tasman Mutual Recognition (Queensland) Act 2003*

Policy objectives and the reasons for them

The *Trans-Tasman Mutual Recognition Act 2003* (Commonwealth) (the Act) gives effect to the mutual recognition principles adopted by the Commonwealth, State and Territory Governments of Australia, and New Zealand relating to the sale of goods and the registration of occupations. For example with respect to goods, the mutual recognition principles apply such that a good that can be sold legally in Queensland may be imported and sold legally in any other state or territory despite the regulatory standards that would otherwise apply to in another jurisdiction.

The Act overrides any laws that regulate the manufacture or sale of goods in the jurisdiction of sale where the requirements of the jurisdiction of origin are met. The Act does provide, however, for circumstances where the mutual recognition principle will not apply. These circumstances are covered by exceptions to the principle, as well as provisions for permanent and temporary exemptions.

Provisions of the *Waste Reduction and Recycling Act 2011* introduce a container refund scheme for Queensland. Under the Queensland container refund scheme legislation, a

beverage manufacturer must not sell a beverage product to another person to use or consume in Queensland, or to sell for use, consumption or further sale in Queensland unless:

- a container recovery agreement is in force for the type of container used for the beverage product;
- the container is registered; and
- the container displays the refund marking and a barcode for the beverage product.

A beverage manufacturer includes a person who imports the beverage product from another country.

Under the scheme, empty containers displaying the approved refund marking can be returned to a container refund point in exchange for a 10c refund per container.

The mutual recognition framework allows individual jurisdictions to unilaterally invoke temporary exemptions from the application of the mutual recognition principle. Temporary exemptions have a limited life of 12 months and cannot be extended.

The *Trans-Tasman Mutual Recognition (Queensland) Temporary Exemptions Regulation 2018* provides for a temporary exemption for the container refund scheme under section 8 of the *Trans-Tasman Mutual Recognition (Queensland) Act 2003*. The exemption will expire on 31 October 2019.

Achievement of policy objectives

The policy objective that will be achieved through this regulation is to provide for a temporary exemption for the container refund scheme under the Act.

Consistency with policy objectives of authorising law

The regulation is consistent with the objectives of the Act in providing for a temporary exemption.

Inconsistency with policy objectives of other legislation

The regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

There are no other options for achieving the policy objectives.

Consistency with fundamental legislative principles

The *Legislative Standards Act 1992* was considered during the drafting of this regulation and the amendments are consistent with fundamental legislative principles.

Consultation

In accordance with *The Queensland Government Guide to Better Regulation*, the Office of Best Practice Regulation (OBPR) was consulted in relation to the proposal to seek a temporary exemption. OBPR has confirmed that the proposal to seek a temporary exemption from the mutual recognition legislation is unlikely to benefit from further regulatory impact analysis at this time. Before a permanent exemption is sought, a Consultation Regulatory Impact Statement (RIS) and a Decision RIS, as part of the Council of Australian Government's process, will be required through the Commonwealth processes.

In 2017, the former Minister for Environment and Heritage Protection and Minister for National Parks and the Great Barrier Reef wrote to Australian and New Zealand Environment Ministers advising of Queensland's intention to put in place a temporary exemption and to seek a permanent exemption for the container refund scheme.

No changes to the regulation were required as a result of the consultation.

Notes on provisions

Clause 1. Short Title

This clause provides for the short title of the regulation. This regulation may be cited as the Trans-Tasman Mutual Recognition (Queensland) Temporary Exemptions Regulation 2018.

Clause 2. Temporary exemptions about container refund scheme— Act, s8

This clause states, for section 46 of the Commonwealth *Mutual Recognition Act 1992*, the following laws that this section applies to. These are:

- the *Waste Reduction and Recycling Act 2011*, chapter 4, parts 3B and 5; and
- to the extent that other provisions of the Waste Reduction and Recycling Act relate to the container refund scheme, those other provisions.

Clause 3. Expiry

This clause states that this regulation expires on 31 October 2019.