

Trans-Tasman Mutual Recognition (Queensland) (NT and Tasmanian Container Deposit Schemes) Notice 2023

Explanatory notes for SL 2023 No. 130

made under the

Trans-Tasman Mutual Recognition (Queensland) Act 2003

General Outline

Short title

Trans-Tasman Mutual Recognition (Queensland) (NT and Tasmanian Container Deposit Schemes) Notice 2023

Authorising law

Sections 43 and 45 of the *Trans-Tasman Mutual Recognition Act 1997* (Cth)
Section 7 of the *Trans-Tasman Mutual Recognition (Queensland) Act 2003*

Policy objectives and the reasons for them

The policy objective of the *Trans-Tasman Mutual Recognition (Queensland) (NT and Tasmanian Container Deposit Schemes) Notice 2023* (notice) is to endorse proposed Commonwealth regulations to be made by the Governor-General under the *Trans-Tasman Mutual Recognition Act 1997* (Commonwealth Act), pursuant to section 43(1) of the Commonwealth Act.

The Commonwealth Act provides for the recognition within Australia of regulatory standards adopted in New Zealand regarding certain goods and occupations. The *Trans-Tasman Mutual Recognition (Queensland) Act 2003* (Queensland Act) adopted the Commonwealth Act as a law of Queensland.

The Commonwealth Act provides that goods that may lawfully be sold in New Zealand may lawfully be sold in an Australian jurisdiction without the necessity for compliance with further requirements imposed under Australian legislation.

The Northern Territory (NT) introduced the *Environment Protection (Beverage Containers and Plastic Bags) Act 2011* (NT) and regulations under that Act (NT Container Deposit Laws) to create a container deposit scheme.

Similarly, Tasmania introduced the *Container Refund Scheme Act 2022* (Tas.) and is developing regulations under that Act (Tasmanian Container Deposit Laws) to also create a container deposit scheme.

Certain requirements of these schemes are contrary to the mutual recognition principle.

Section 45 of the Commonwealth Act provides that laws listed in Schedule 2 of the Act are permanently exempt from the mutual recognition principle. Section 45(3) of the Commonwealth Act provides that the Governor-General may amend the Schedule to the Act by way of regulation.

Under section 45(4) of the Commonwealth Act, the Governor-General may not make the regulation unless all of the then participating jurisdictions have endorsed the regulation. Section 43(1) of the Commonwealth Act provides that a jurisdiction endorses a regulation if the designated person for the jurisdiction publishes a notice in the official gazette of the jurisdiction setting out and endorsing the terms of the regulation before it is made.

The Governor is the designated person for Queensland under section 4 of the Commonwealth Act and section 7(1) of the Queensland Act. Section 7(2) of the Queensland Act provides that the Gazette Notice is subordinate legislation and the Gazette Notice has therefore been prepared by the Office of the Queensland Parliamentary Counsel.

Achievement of policy objectives

The policy objectives are achieved by the notice setting out and endorsing the proposed Commonwealth regulation, as required under section 7 of the Queensland Act and section 43(1) of the Commonwealth Act.

Consistency with policy objectives of authorising law

The notice is consistent with the main objectives of the *Trans-Tasman Mutual Recognition (Queensland) Act 2003*.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The implementation of the notice will have no impact in Queensland.

Consistency with fundamental legislative principles

The notice does not raise fundamental legislative principles.

Consultation

As the notice has no impact on persons in Queensland, no further consultation has been carried out on the notice.