

# Mutual Recognition (Queensland) Temporary Exemptions Regulation 2018

Explanatory notes for SL 2018 No. 223

made under the

*Mutual Recognition (Queensland) Act 1992*

## General Outline

### Short title

*Mutual Recognition (Queensland) Temporary Exemptions Regulation 2018* (the regulation)

### Authorising law

Section 7 of the *Mutual Recognition (Queensland) Act 1992*

### Policy objectives and the reasons for them

The *Mutual Recognition Act 1992* (Commonwealth) (MRA) enables the enactment of uniform legislation relating to recognition of regulatory standards adopted in Australia regarding goods and occupations.

The objective of the mutual recognition principles is to promote the goal of freedom of movement of goods and service providers in a national market in Australia.

The MRA provides that sales of goods to which the mutual recognition principle applies do not require compliance with ‘further requirements’ that might otherwise be required under the laws of the importing jurisdiction. These include quality or performance standards, inspection requirements and labelling standards.

The definition of goods in the context of a container refund scheme includes a package containing goods or a label attached to goods.

The container refund scheme component of the *Waste Reduction and Recycling Act 2011* (WRR Act), as amended by the *Waste Reduction and Recycling Amendment Act 2017*,

require all beverage products sold in Queensland in eligible containers to display the refund marking and a barcode for the beverage product. The refund marking must be displayed on the container in a manner prescribed in *Waste Reduction and Recycling Regulation 2011*. Further, beverage manufacturers will need to obtain an approval for their beverage containers, and beverage manufacturers who first sell beverage products in eligible containers into Queensland will need to enter into a Container Recovery Agreement with the Product Responsibility Organisation appointed to administer the scheme. While the WRR Act and container refund scheme:

- allows for the recognition of approvals that have been granted in other states and territories where schemes operate; and
- provides for consistency in the refund marking to be displayed and the date by which the refund mark is to be displayed on containers

some provisions may be considered to impose ‘further requirements’ under the MRA. For this reason, an exemption is required under the MRA.

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 *Mutual Recognition (Queensland) Temporary Exemptions Regulation 2018* provides for a temporary exemption for the container refund scheme under section 7 of the *Mutual Recognition (Queensland) Act 1992*. 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 MRA.

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

The regulation is consistent with the objectives of the MRA 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 Mutual Recognition (Queensland) Temporary Exemptions Regulation 2018.

### **Clause 2.            Temporary exemptions about container refund scheme— Act, s7**

This clause states, for section 15 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.