

2008

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Dr Deb Foskey)

Waste Minimisation (Container Recovery) Amendment Bill 2008

A Bill for

An Act to amend the *Waste Minimisation Act 2001*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Waste Minimisation (Container Recovery) Amendment Act 2008*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This Act amends the *Waste Minimisation Act 2001*.

4 New part 2A

insert

Part 2A Container recovery

Division 2A.1 General

20A Definitions—pt 2A

beverage means a liquid intended for human consumption by drinking, including—

- (a) any carbonated or non-carbonated soft drink, fruit juice or water; or
- (b) any alcoholic drink; or
- (c) milk, including animal milk, soy milk and flavoured or processed milk; or
- (d) any other liquid declared by regulation.

1 **beverage container** means a sealed container, containing a
2 beverage, that is produced for sale to the consumer of the beverage.

3 **beverage container contribution**—see section 20I.

4 **collection depot**—see section 20H.

5 **container deposit fund** means the fund established under
6 section 20Q.

7 **labelled** includes embossed, painted or stamped.

8 **management committee**—see section 20O.

9 **national packaging covenant** means *The National Packaging*
10 *Covenant: a commitment to the sustainable manufacture, use and*
11 *recovery of packaging* agreed to by the Environment Protection and
12 Heritage Council on 1 July 2005 and to which the Territory is a
13 signatory.

14 *Note* For information about the Environment Protection and Heritage
15 Council—see www.ephc.gov.au.

16 **post-consumer packaging** means material (including empty used
17 beverage containers) that—

18 (a) is generated by householders or by commercial, industrial and
19 institutional facilities as end users of products that were
20 packaged; and

21 (b) can no longer be used for its intended purpose.

22 **refund value** means 10 cents, or any higher amount prescribed by
23 regulation.

24 *Note* A higher amount may be prescribed following a review of the refund
25 value (see s 20Y).

26 **relevant material** means paper (including cardboard), glass, steel,
27 aluminium or plastic.

28 **scheme administrator**—see section 20N.

1 *sell* means sell, or offer to sell, to a person in the ACT or for
2 delivery in the ACT.

3 **Division 2A.2 Introduction and application of**
4 **container recovery scheme**

5 **20B Application of pt 2A—declaration by Minister**

6 (1) This part applies to beverage containers made wholly or mainly of a
7 relevant material only if the Minister declares that this part applies
8 to beverage containers made wholly or mainly of that material.

9 (2) However, this does not apply to the beverage containers until—

10 (a) 6 months after the declaration is made; or

11 (b) if another date is stated in the declaration—that date.

12 (3) A declaration is a notifiable instrument.

13 *Note* A notifiable instrument must be notified under the Legislation Act.

14 **20C No application to existing containers**

15 This part does not apply to a beverage container manufactured
16 before the day this part would, apart from this section, apply to the
17 beverage container.

18 *Note* A regulation may exempt beverage containers from the application of
19 this part (see s 20W).

20 **20D Declaration following 2008 review**

21 (1) The Minister must declare that this part applies to beverage
22 containers made wholly or mainly of a relevant material if, not later
23 than 3 months after the day the Minister is given the 2008 review it
24 appears to the Minister that—

25 (a) for beverage containers made wholly or mainly of paper or
26 cardboard—

- 1 (i) less than 68.5% of post-consumer packaging that is made
2 wholly or mainly of paper or cardboard (*paper*
3 *packaging*) is being recycled; or
- 4 (ii) the target of recycling 70–80% of paper packaging by
5 31 July 2010 will not be met; or
- 6 (b) for beverage containers made wholly or mainly of glass—
- 7 (i) less than 46.25% of post-consumer packaging that is
8 made wholly or mainly of glass (*glass packaging*) is
9 being recycled; or
- 10 (ii) the target of recycling 50–60% of glass packaging by
11 31 July 2010 will not be met; or
- 12 (c) for beverage containers made wholly or mainly of steel—
- 13 (i) less than 56% of post-consumer packaging that is made
14 wholly or mainly of steel (*steel packaging*) is being
15 recycled; or
- 16 (ii) the target of recycling 60–65% of steel packaging by
17 31 July 2010 will not be met; or
- 18 (d) for beverage containers made wholly or mainly of
19 aluminium—
- 20 (i) less than 68.5% of post-consumer packaging that is made
21 wholly or mainly of aluminium (*aluminium packaging*)
22 is being recycled; or
- 23 (ii) the target of recycling 80–85% of aluminium packaging
24 by 31 July 2010 will not be met; or
- 25 (e) for beverage containers made wholly or mainly of plastic—
- 26 (i) less than 33.75% of post-consumer packaging that is
27 made wholly or mainly of plastic (*plastic packaging*) is
28 being recycled; or

- 1 (ii) the target of recycling 40–45% of plastic packaging by
2 31 July 2010 will not be met.

3 (2) In this section:

4 *2008 review* means the 2008 review required by the national
5 packaging covenant.

6 **20E Declaration following expiry of national packaging**
7 **covenant**

- 8 (1) This section applies if, before 30 June 2010 (the *expiry date*), a
9 declaration has not been made under section 20D (Declaration
10 following 2008 review) in relation to beverage containers made
11 wholly or mainly of a relevant material.

12 *Note* The national packaging covenant expires on 30 June 2010.

- 13 (2) The Minister must, before 1 October 2010, declare that this part
14 applies, on and from 1 January 2011, to beverage containers made
15 wholly or mainly of the relevant material if, it appears to the
16 Minister that—

17 (a) for beverage containers made wholly or mainly of paper or
18 cardboard—less than 70% of post-consumer packaging that is
19 made wholly or mainly of paper or cardboard is being recycled
20 by the expiry date; or

21 (b) for beverage containers made wholly or mainly of glass—less
22 than 50% of post-consumer packaging that is made wholly or
23 mainly of glass is being recycled by the expiry date; or

24 (c) for beverage containers made wholly or mainly of steel—less
25 than 60% of post-consumer packaging that is made wholly or
26 mainly of steel is being recycled by the expiry date; or

- 1 (d) for beverage containers made wholly or mainly of
 2 aluminium—less than 80% of post-consumer packaging that is
 3 made wholly or mainly of aluminium is being recycled by the
 4 expiry date; or
- 5 (e) for beverage containers made wholly or mainly of plastic—less
 6 than 30% of post-consumer packaging that is made wholly or
 7 mainly of plastic is being recycled by the expiry date.

8 **Division 2A.3 Labelling containers**

9 **20F Container must be labelled**

10 A beverage container must bear a label that—

- 11 (a) contains the statement “*refund payable at any authorised ACT*
 12 *collection depot*”; and
- 13 (b) is in accordance with anything prescribed by regulation.

14 **Example**

15 a regulation may prescribe the size of a label for a particular kind of container

16 *Note* An example is part of the Act, is not exhaustive and may extend, but
 17 does not limit, the meaning of the provision in which it appears (see
 18 Legislation Act, s 126 and s 132).

19 **20G Offence to sell unlabelled container**

20 (1) A person commits an offence if—

- 21 (a) the person sells a beverage container; and
- 22 (b) the container does not bear a label that complies with
 23 section 20F.

24 Maximum penalty: 20 penalty units.

25 (2) An offence against this section is a strict liability offence.

Division 2A.4 Collection depots

20H Establishment or approval of collection depots

- (1) The Minister may establish or approve a depot (a *collection depot*) for the collection of empty beverage containers for this part.
- (2) Without limiting subsection (1), any of the following may be approved as a collection depot:
- (a) a community centre or community based facility;
 - (b) a depot at a shopping centre or centre car park;
 - (c) a drive-through recycling centre;
 - (d) a depot at a service station or other retailer.
- (3) A regulation may make provision in relation to—
- (a) the establishment or approval of collection depots; or
 - (b) the design of collection depots; or
 - (c) the operation and location of collection depots.

Example—par (b)

manual or mechanised handling facilities

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Division 2A.5 Contribution, refund and reimbursement

20I Beverage container contributions

- (1) This section applies if a person manufactures, or brings into the ACT, a beverage container.

- 1 (2) The person is liable to pay a contribution (the *beverage container*
2 *contribution*) for each beverage container.
- 3 (3) The amount of the contribution is 10 cents, or any higher amount
4 prescribed by regulation.
- 5 (4) The contribution must be paid to the scheme administrator no later
6 than 14 days after the last day of the month in which the person
7 became liable to pay the contribution.

8 *Note* An amount recovered under this section by the scheme administrator
9 must be paid into the container deposit fund (see s 20S).

10 **20J Collection depot must pay refund value**

- 11 (1) The operator of a collection depot commits an offence if—
12 (a) the operator accepts delivery from a person of an unbroken
13 empty beverage container at a collection depot; and
14 (b) the person requests the amount of the refund value for the
15 beverage container; and
16 (c) the operator does not give the amount of the refund value to the
17 person.

18 Maximum penalty: 50 penalty units.

- 19 (2) The operator of a collection depot commits an offence if—
20 (a) a person delivers an unbroken empty beverage container to the
21 collection depot; and
22 (b) the operator refuses to accept delivery of the beverage
23 container.

24 Maximum penalty: 50 penalty units.

- 25 (3) An offence against this section is a strict liability offence.

- 1 **20K Collection depot must report on refund value paid**
- 2 (1) The operator of a collection depot must give the scheme
- 3 administrator a report detailing—
- 4 (a) the number of empty beverage containers accepted at the
- 5 collection depot in each month; and
- 6 (b) the amount of refund value paid in relation to the beverage
- 7 containers.
- 8 (2) The report must be in the form, and contain the information,
- 9 prescribed by regulation.
- 10 **20L Reimbursement to collection depots**
- 11 The scheme administrator must, after receiving a collection depot's
- 12 report under section 20K, pay to the depot from the container
- 13 deposit fund—
- 14 (a) the total amount of refund value paid by the collection depot
- 15 for unbroken empty beverage containers in the period covered
- 16 by the report; and
- 17 (b) any processing fee prescribed by regulation.
- 18 **20M Use of unused refund value amounts**
- 19 (1) This section applies if, at the end of a financial year, there is a credit
- 20 amount in the container deposit fund.
- 21 (2) The management committee may direct the scheme administrator to
- 22 use, or distribute, all or part of the credit amount for a purpose
- 23 mentioned in section 20R (Purpose of container deposit fund).
- 24 (3) A regulation may make provision in relation to the working out, use
- 25 or distribution of a credit amount for this section.

Division 2A.6 Administration of scheme

20N Scheme administrator

- (1) The Minister must appoint a beverage container deposit scheme administrator (the *scheme administrator*).

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

- (2) The scheme administrator has the following functions:

- (a) to oversee the operation of this part;
- (b) to make payments from the container deposit fund;
- (c) to report to the management committee on the following:
 - (i) the operation of this part generally;
 - (ii) the administration of the container deposit fund;
 - (iii) data about recycling rates and individual collection depots;
 - (iv) any other matter the Minister or management committee requests.

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

- (3) A regulation may make provision in relation to how records and accounts are to be kept by the scheme administrator.

- 1 **20O Container deposit management committee**
- 2 (1) The container deposit management committee (the *management*
- 3 *committee*) is established.
- 4 (2) The management committee consists of 4 members appointed by the
- 5 Minister.
- 6 *Note 1* For the making of appointments (including acting appointments), see
- 7 the Legislation Act, pt 19.3.
- 8 *Note 2* In particular, an appointment may be made by naming a person or
- 9 nominating the occupant of a position (see Legislation Act, s 207).
- 10 *Note 3* Certain Ministerial appointments require consultation with an Assembly
- 11 committee and are disallowable (see Legislation Act, div 19.3.3).
- 12 (3) The Minister must ensure that the committee members include—
- 13 (a) a government representative; and
- 14 (b) a representative of community or environmental groups; and
- 15 (c) a representative of the beverage packaging industry; and
- 16 (d) another person who, in the Minister’s opinion, has
- 17 qualifications or experience relevant to assisting the committee
- 18 to carry out its functions.
- 19 (4) A regulation may provide for the procedure of the management
- 20 committee.

- 21 **20P Functions of management committee**
- 22 The management committee has the following functions:
- 23 (a) to advise the Minister on any matter on which the Minister
- 24 requests advice and on any other matter concerning the
- 25 operation of this part that the management committee thinks
- 26 fit;
- 27 (b) to oversee the administration of the container deposit fund;

1 (c) any other function relating to the operation of this part
2 determined by the Minister.

3 *Note* A provision of a law that gives an entity (including a person) a function
4 also gives the entity powers necessary and convenient to exercise the
5 function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

6 **Division 2A.7 Container deposit fund**

7 **20Q Establishment of container deposit fund**

8 The scheme administrator must establish a container deposit fund.

9 **20R Purpose of container deposit fund**

10 The purpose of the container deposit fund is to provide funding—

- 11 (a) to create and support a market for collected beverage
12 containers and material derived from them; and
- 13 (b) for financial support for kerbside recycling services; and
- 14 (c) to offset the costs incurred by collection depots; and
- 15 (d) to develop ways of improving the recyclability and reusability
16 of beverage containers; and
- 17 (e) to support other activities and programs connected with
18 recycling that are approved by the management committee.

19 **Example—par (e)**

20 education campaigns

21 *Note* An example is part of the Act, is not exhaustive and may extend, but
22 does not limit, the meaning of the provision in which it appears (see
23 Legislation Act, s 126 and s 132).

1 **20S Payments into container deposit fund**

2 The following must be paid into the container deposit fund:

- 3 (a) all money received from beverage container contributions;
- 4 (b) all money appropriated by the Territory for the fund;
- 5 (c) the proceeds of the investment of money in the fund;

6 *Note* The scheme administrator may invest money in the container
7 deposit fund which is not immediately required for the fund
8 (see s 20V).

- 9 (d) all other money directed or authorised to be paid into the fund
10 under this Act or another Act.

11 **20T Payments out of container deposit fund**

12 There is payable from the container deposit fund—

- 13 (a) payments required to be made under section 20L
14 (Reimbursement to collection depots); and
- 15 (b) payments authorised under section 20M (Use of unused refund
16 value amounts); and
- 17 (c) any payments required to meet administrative expenses related
18 to the fund; and
- 19 (d) any other payments authorised under this or any other Act.

20 **20U Administration of container deposit fund**

- 21 (1) The scheme administrator administers the container deposit fund.
- 22 (2) The scheme administrator must report to the management
23 committee on the administration of the container deposit fund in the
24 way, and when, the management committee requires.
- 25 (3) A regulation may make provision in relation to the administration of
26 the container deposit fund.

- 1 **20V Investment of money in the container deposit fund**
- 2 The scheme administrator may invest money in the container
- 3 deposit fund which is not immediately required for the fund—
- 4 (a) in any way that the Treasurer is authorised to invest money
- 5 under the *Financial Management Act 1996*; or
- 6 (b) in any other way approved by the Minister or provided for
- 7 under a regulation.

8 **Division 2A.8 Exemptions**

- 9 **20W Regulation may exempt**
- 10 A regulation may exempt beverage containers from the application
- 11 of this part.

12 **Division 2A.9 Miscellaneous**

- 13 **20X Barcodes to be notified**
- 14 (1) This section applies if a person manufactures in the ACT, or brings
- 15 into the ACT, a beverage container that has a barcode on it.
- 16 (2) The person commits an offence if the person does not give the
- 17 management committee details of the barcode—
- 18 (a) as prescribed by regulation; and
- 19 (b) within the time prescribed by regulation.
- 20 Maximum penalty: 20 penalty units.
- 21 (3) An offence against this section is a strict liability offence.

- 1 **20Y Review of refund value**
- 2 (1) The Minister must review the refund value at least once every 5
- 3 years.
- 4 (2) In conducting the review, the Minister must have regard to the
- 5 minimum refund value necessary to—
- 6 (a) encourage manufacturers, distributors and consumers of
- 7 beverages in beverage containers to reuse or recycle beverage
- 8 containers; and
- 9 (b) ensure high rates of recovery of the beverage containers to
- 10 which this part applies or will apply; and
- 11 (c) reduce litter and litter-related costs; and
- 12 (d) conserve resources generally.

13 **5 Dictionary, new definitions**

14 *insert*

15 *beverage*, for part 2A (Container recovery)—see section 20A.

16 *beverage container*, for part 2A (Container recovery)—see

17 section 20A.

18 *beverage container contribution*, for part 2A (Container

19 recovery)—see section 20I.

20 *collection depot*, for part 2A (Container recovery)—see

21 section 20H.

22 *container deposit fund*, for part 2A (Container recovery)—see

23 section 20A.

24 **6 Dictionary, definition of covenant**

25 *omit*

7 Dictionary, new definitions

insert

labelled, for part 2A (Container recovery)—see section 20A.

management committee, for part 2A (Container recovery)—see section 20O.

national packaging covenant, for part 2A (Container recovery)—see section 20A.

post-consumer packaging, for part 2A (Container recovery)—see section 20A.

refund value, for part 2A (Container recovery)—see section 20A.

relevant material, for part 2A (Container recovery)—see section 20A.

scheme administrator, for part 2A (Container recovery)—see section 20N.

sell, for part 2A (Container recovery)—see section 20A.

Endnotes**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2008.

2 Notification

Notified under the Legislation Act on 2008.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.