



Draft Container Refund Scheme Regulations 2023

Summary of feedback received from public consultation

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Glossary

Act	<i>Container Refund Scheme Act 2022</i>
Minister	Minister for Environment and Climate Change
MRF	Material Recovery Facility
Network Operator	The body responsible for managing the network of refund points across Tasmania and ensuring containers are recycled
NRE Tas	Department of Natural Resources and Environment Tasmania
PVC	Polyvinyl chloride
PET	Polyethylene terephthalate
Regulations	Container Refund Scheme Regulations 2023
Scheme	Container Refund Scheme
Scheme Coordinator	The body responsible for running the administration and finance for the Scheme
Secretary	Secretary of the Department of Natural Resources and Environment Tasmania

Executive Summary

The *Container Refund Scheme Act 2022* (the Act) passed through Parliament in early 2022 as part of the Tasmanian Government's vision of reducing litter and increasing recycling. These draft Container Refund Scheme Regulations 2023 (the Regulations) were developed to support the Act.

The draft Regulations were released for public comment for a six-week period between 3 May and 14 June 2023 with thirty-five submissions received from individuals, retail and beverage industry representatives, local government, and local and national environment organisations.

Most respondents were supportive of Tasmania having a Scheme and the specific provisions included in the draft Regulations. A number of submissions highlighted specific issues, requests for clarification and suggestions for the draft Regulations. These revolved around the following broad themes:

- National Harmonisation
- Material Recovery Facilities (MRFs)
- General

The purpose of this document is to provide a summary of the feedback received, as well as note where feedback has informed subsequent amendments.

National Harmonisation

All Australian state and territory Governments have committed to bringing their schemes into alignment where possible. National harmonisation will have a range of benefits, including improving the recovery of high value materials and minimising confusion in the community about container eligibility.

Issues raised in the feedback below relate to considerations of national harmonisation.

Refund Amount

Several submissions supported setting the initial refund value at 10 cents per container, as proposed.

“To prevent cross-border difficulties, it makes sense for Tasmania to maintain consistency with the Australian CRS jurisdictions already operating.”

Submission from TOMRA

However, these submissions also tended to recognise that 10 cents is a low-value refund by international standards, and that a consistent national approach to raising it should be considered.

“...jurisdictions should also work together to agree on a higher deposit amount, which is the obvious next step in building return rates and greater circularity of materials.”

Submission from Australian Council of Recycling (ACOR)

Ten submissions disagreed with the 10 cents refund amount outright, believing it too low. Several advocated for a 50 cents amount and referred to Nordic case studies that depicted a correlation between higher refund amounts and higher redemption rates.

“Australia's standard of 10 cents per container leads to only around a 70% collection rate, while many European and Nordic countries achieve rates of 90+% with deposits closer to AUD 50 cents for smaller containers and AUD 75 cents for larger ones. There seems to be an increase in return rate directly related to the financial incentive to return.”

Submission from Jan Twomey

Our response

A nationally consistent refund amount will be an important stabiliser in Tasmania establishing a successful Scheme. The currently proposed 10 cents per container is consistent with the refund amount in all other states and territories, as well as the scheme soon to commence in Victoria.

Investigation into potential benefits of a refund amount increase is under consideration by the national harmonisation working group.

Container Scope Expansion

Tasmania is committed to national harmonisation of eligible containers. Containers proposed as eligible in the draft Regulations generally align with those already eligible in other Australian state and territories. These are typically between 150ml and 3L in volume, and generally cans, bottles, cartons, juice boxes and poppers.

Two submissions from wine industry organisations agreed with the current container scope outlined in the draft Regulations. They submitted that wine bottles are primarily consumed at home or in service venues and as such do not meaningfully contribute to Tasmania's litter stream.

“The Tasmanian Government is encouraged to view any potential future expansion of the Scheme through the two stated objectives of reducing litter and improving recycling, and with evidence of the baseline litter and recycling rates.”

Submission from Wine Tasmania

Eleven submissions disagreed with the proposed container scope, noting that the number of containers included was too low. Of these submissions, the common theme was to advocate for expansion to include wine and spirit bottles (and even disposable coffee cups).

“... larger containers and wine and spirit bottles are not eligible for the refund, even though they are widely used and have high recycling value. Moreover, disposable coffee cups are also not included in the scheme, despite being a major source of litter and waste.”

Submission from Donnacha McGrath

The Waste Management and Resource Recovery Association Australia (WMRR), Australian Packaging Covenant Organisation (APCO) and Clarence City Council supported nationally consistent scope expansion.

“APCO’s support of nationally consistent material scope is based on the fact that:

- Glass returned to CDS depots results in higher value recovered resources.*
- The sale of cullet for container manufacturing from glass returned through CDS is higher (99%) compared to glass collected in kerbside bins (11%), which supports stronger circularity outcomes. [Source: Improving South Australia’s Recycling Makes Cents, EPA SA (2021), p. 28.]*
- Including fruit, vegetable and cordial containers will remove confusion and inconsistency around scope and support an increase in the recovery of high value plastics.”*

Submission from Australian Packaging Covenant Organisation (APCO)

Our response

The Tasmanian Government remains committed to a consistent national approach, and this includes consideration of how the scope of eligible containers may expand. There are strong environmental benefits and community support for the inclusion of glass wine and spirit containers and consultation will occur with Tasmania’s wine and spirit industries prior to a decision being made. Disposable coffee cups will not be included as they are not recyclable.

Problematic Containers

Australian Council of Recycling (ACOR) and Australian Packaging Covenant Organisation (APCO) submitted that several container material types should be excluded as they contaminate recycling streams. For instance:

- *Opaque PET*: can be difficult to detect with optical sorters at MRFs, has limited end markets, and can contaminate and potentially render whole loads of PET unrecyclable.
- *PVC*: can contaminate the PET recycling process and end products, and has a similar density to PET, making it difficult to separate.

Our response

The importance of preventing problematic materials entering Scheme recycling streams is acknowledged, however, the preferred approach to address this is via separate guidelines, not to specify materials in the Regulations themselves.

This is a matter that is actively being managed in other jurisdictions. Most jurisdictions make clear to suppliers that beverage containers made of problematic materials are not likely to be approved without advice from the Scheme governance organisations that arrangements can be made to identify, separate and recycle the material. This arrangement is considered to provide a more flexible and adaptive approach to regulating potentially problematic materials.

National Single Point of Entry Approval System

APCO noted support for a national single point of entry approval system for eligible container registration and approval.

“In general, APCO supports all opportunities for scheme efficiencies and systems improvements to reduce administrative burden. In this regard, APCO supports the establishment of a national system for container registration, where approvals continue to be the responsibility of government in each jurisdiction.”

Submission from APCO

Our response

NRE Tas is part of a national harmonisation working group developing options for such a system, and the Regulations as drafted will not restrict its future use if implemented.

Nationally Consistent Definitions

Two submissions noted their support for nationally consistent terminology. The submissions suggested that jurisdictions share definitions to help users navigating multiple schemes.

“Due to sector specific jargon used throughout, the Regulations would benefit from a definitions list. Ideally, this would be in line with other jurisdictions and assist to ensure the Regulations operational ease of use.”

Submission from Clarence City Council

Our response

The Tasmanian Government has endeavoured to make Scheme definitions (found in [Section 3](#) of the Act) as consistent as possible with other jurisdictions; however some differences are unavoidable. To help alleviate confusion, public education will be a strong focus of the pre-commencement mobilisation period.

Material Recovery Facilities

Eight submissions provided feedback on the draft regulations that deal with Material Recovery Facility (MRF) participation in the Scheme.

Containers Being Sent to Landfill

Draft regulation 13 aims to clarify the rare circumstances where an approved container may enter landfill even after a MRF operator has received a refund for its recycling. Issues with this draft regulation were raised in four submissions, each noting confusion around wording and seeking clarification as to the circumstances that would constitute a refunded container being sent to landfill.

“It would be expected that such a situation would arise if the container is contaminated or unable to be recycled. However, the clause refers to a situation in which the container falls ‘into one of the paragraphs in section 31 (1) of the Act’ ... None of these are reasons that would necessitate a MRF to landfill a container.”

Submission by TOMRA

Submissions also queried whether refunds should be returned to the Scheme in such cases, as well as sought consistency between the Act and the draft Regulations.

Our response

NRE Tas acknowledges the merit of the feedback raised and has amended this regulation to better account for exceptional circumstances where a container that a MRF operator has claimed a refund for is allowed to be disposed of.

This draft regulation is required to account for exceptional events that result in a container becoming unrecyclable. The only narrow window of time this regulation could apply is within the period *after* a MRF operator has sent a container to a recycling network (and claimed a refund) and *before* the container has been recycled. A flood or vehicle accident are potential examples, and it is obviously hoped that such incidences will be rare.

As the MRF operator will have sent containers for recycling prior to claiming a refund payment from the Scheme Coordinator, they will not be made liable to repay the refund claimed. However, they will need to demonstrate to NRE Tas that:

- the circumstances were unforeseen or out of their control
- all reasonable steps were taken to prevent or reduce effects
- it is impossible or impracticable to reverse the effects to make the container recyclable.

Auditing

Two submissions raised issue with draft regulation 16 which allows the Scheme Coordinator to request a MRF operator to audit their premises (to ensure a refund is not claimed on containers collected pre-commencement).

“We strongly believe that the MRF audit prior to initialising the scheme needs to be undertaken by independent auditors contracted by the Scheme or Department, not the MRFs themselves. ...an independent auditor is essential to ensuring the integrity of the scheme.”

Submission from Australian Beverages Council

Both submissions argued that self-auditing is not best-practice and could result in actual or perceived conflicts of interest.

Our response

NRE Tas acknowledges the validity of this concern and has amended the regulation to require an independent auditor to undertake this work. This approach is consistent with other jurisdictions and will help avoid actual and perceived conflicts of interest.

The Scheme Coordinator remains responsible for payment of audit costs.

General

General Support

The majority of submissions were supportive of the scheme in general, with many advocating for commencement as soon as possible. Reasons for support mainly centred around the proven ability of container refund schemes to reduce litter, increase recycling, support a circular economy, and provide funds for charity and community groups.

“The container refund scheme is a great incentive and works well in all other states that have introduced it.”

Submission from David Schaller

Two submissions objected overall to the scheme. Their reasonings were, respectively, that small beverage producers do not contribute to the litter problem, and that the potential for the cost to be passed on to the consumer was unreasonable.

“Encouraging businesses to create more sustainable packaging through incentives would be better than forcing business’ to partake and then families to bare the cost of this incentive.”

Submission from Erica Kingham-Bradley

Mass Refund Agreements

Draft regulation 14 provided an option for people who regularly return high volumes of containers to enter an agreement where their refunds are estimated by a method other than direct count. This aimed to account for times when it may be unfeasible for a refund point operator to pay a refund immediately.

Four submissions raised strong concerns that draft regulation 14 could compromise the integrity of the scheme. Concerns included:

- increased fraud risk
- using a methodology other than direct count for calculating the refund amount payable will be too crude and compromise scheme data, reporting and transparency.

“Container-count systems are the most prevalent for a reason: the unambiguity minimises fraud and disputes, and creates solid data which can be used for decision-making.”

Submission from Australian Beverages Council

Our response

The Scheme Coordinator and Network Operator will aim to mitigate fraud in the Scheme via a range of verification and audit measures. However, it is agreed that any potential convenience benefits gained by providing an option for non-direct count Mass Refund Agreements are outweighed by the associated integrity risks, as well as additional scheme complexity and cost.

NRE Tas accepts the merit of the feedback received and has amended the draft regulation to only allow for refunds to be paid by after direct count.

This position is consistent with operations in all Australian jurisdictions.

Cost

Four submissions were concerned the cost of operating the Scheme would be borne by the taxpayer.

“It is vital that all administrative and policing costs for running a CRS be met by the beverage industry or a not-for-profit company financed by beverage producers and retailers. This way, Tasmanian citizens are not burdened with the administration costs of the CRS.”

Submission by Clarence Climate Action

Our response

As with other schemes across Australia, the Tasmanian Scheme will be funded by the beverage industry through a per container contribution fee to be set by the Scheme Coordinator. This is an example of Extended Producer Responsibility.

Container Application Requirements

Two submissions proposed changes to the information required to apply for a container approval to reduce complexity for suppliers (draft regulation 7).

TasRecycle proposed the requirement for internal dimensions be removed because they are of little importance to recycling operations and suggested that the Secretary should have flexibility around the application and approval process at their discretion. Both submissions argued that requiring label design to be submitted for review and approval upfront is an impost for suppliers without clear benefit.

“Labelling requirement to be as small as possible with minimal amount of colour so as to not add another unnecessary impost.”

Submission by Independent Brewers Association

Our response

NRE Tas accepts the merit of the feedback that the internal dimensions and label design of a container are prescriptions best required in supply agreements (as provided for in [Section 23](#) of the Act) rather than Regulations.

Secretary discretion will be added to draft regulation 7 to provide flexibility to address unforeseen application issues as well as the potential national ‘Single Point of Entry for Container Approvals’ platform.

Circular Economy Considerations

Three submissions encouraged earlier consideration of circular economy interventions in the container life cycle. They stated that the Scheme should aim to increase the number of containers that can be reused, as the reprocessing practices for recycling containers are energy intensive.

“Reprocessing practices for recovered containers are energy-intensive and dependent on degrading the container’s utility. Government needs to direct the beverage industry to develop more circular practices within proscribed timelines.”

Submission by Vivian Vandenberg

Our response

The Tasmanian Government is committed to moving toward circular economy principles. We recognise that reusing is preferable to recycling, so suppliers who offer refills of their glass containers will be exempt from the Scheme (and costs of participation).

The Scheme also sits alongside the *Waste and Resource Recovery Act 2022* as part of actions recently taken across a range of waste initiatives. This Act establishes the Waste and Resource Recovery Board and provides for the establishment of a long-term vision for Tasmania through a Waste and Resource Recovery Strategy and the implementation of a Tasmanian Landfill Levy.



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