

**WASTE AVOIDANCE AND RESOURCE RECOVERY  
AMENDMENT (CONTAINER DEPOSIT) BILL 2018**

*Committee*

Resumed from 12 March. The Deputy Chair of Committees (Hon Martin Aldridge) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

**Clause 1: Short title —**

Progress was reported after the clause had been partly considered.

**Hon STEPHEN DAWSON:** Members will recall that last night Hon Colin Holt finished the debate by asking a question, and I said I would get further information for him. I want to provide that now. The question essentially related to how beverage suppliers will know how many of their containers have been processed under the container deposit scheme. For each first supplier of beverages, the scheme coordinator will be required to estimate the percentage of containers that are returned. The scheme coordinator will develop a supplier contribution methodology to determine supply amounts payable by each supplier. The supplier contribution methodology must be approved by the CEO of the Department of Water and Environmental Regulation and published by the coordinator. The methodology will determine costs attributable to each beverage supplier based on the refund amount set at 10¢, scheme operating costs, the statewide container recovery rate and individual beverage suppliers' market share. The statewide container recovery rate is the percentage of all the containers returned to both collection points and to materials recovery facilities divided by the total number of containers sold in the state in the relevant period. The statewide container recovery rate formula is modelled on the Queensland CDS regulations and will be included in the WA regulations. Market share will be determined by the scheme coordinator in consultation with each individual beverage supplier. For example, if 100 containers were sold, 30 would return to refund points and 30 would be collected by materials recovery facilities, so a total of 60 containers would be recovered. This would mean that the container recovery rate is 60 per cent. To apply this to an individual supplier, if that supplier supplied 10 of the 100 containers into the market, that supplier's market share is obviously 10 per cent. Together with the recovery rate of 60 per cent, that will be used to work out the number of containers attributable to that supplier. In this example, the supplier would have to pay supply amounts based on six containers. It is a complicated process but it is based on that Queensland methodology.

Further, in terms of the estimation methodology, determining the total number of containers returned to collection points is also complex. With some collection points, such as reverse vending machines, it is simpler because barcodes will be on the products and those barcodes will be scanned and individual units identified. When eligible containers from yellow bins need to be separated at materials recovery facilities before being counted and sorted, determining the total number of containers is harder and relies on a pre-determined protocol. The MRF protocol sets out the methodology to determine how many eligible containers MRFs have processed and recycled and therefore the refunds that are payable as a result. Based on the experience in other states, the MRF protocol is expected to offer two methods of determining how many eligible containers are recycled. In the first method, random samples are taken to determine the number of eligible containers per kilogram for each material type—aluminium, PET, plastic, high-density polyethylene, e-plastic et cetera. This method will suit large MRFs. Eligible glass bottles will be estimated from kerbside bin sampling, because glass bottles are of course smashed in a MRF. The second method, likely to suit smaller or manual MRFs, is a direct-count method in which containers are manually separated and counted. As I said, protocols such as these have been working successfully in other jurisdictions and are consistent with the object of the bill to complement existing collection and recycling activities for recyclable waste.

I hope that makes the situation a little clearer for members and I hope it answers the honourable member's questions.

**Hon COLIN HOLT:** I thank the minister for that response. Obviously, I will have to look at *Hansard* to understand it completely. This process is intensive and needs to be thorough, but it all adds cost to the scheme, which is again unknown. The minister may like to reflect on my next point, and maybe there are some signals from Queensland or New South Wales. If there is a dispute in that estimation or when setting the agreement or getting to a final point to agree to move forward, is there a resolution system or scheme? Will the minister or department have a role to give some comfort to beverage suppliers and the operator of the scheme that they have somewhere to go if there is a dispute?

**Hon STEPHEN DAWSON:** The dispute resolutions will be in the scheme agreements. This will be a requirement in the regulations that will come before us in the future. The scheme coordinator will prepare a dispute resolution plan. We have thought about that, and that will be dealt with later.

**Hon COLIN HOLT:** I might move on to something else. I know we are still on clause 1 but we have kind of been moving all over the joint, so we might as well continue a bit. I need to put this in context to get my question right, so I apologise for going over old ground. Yesterday, I raised a question about the estimated 7.5¢ price increase, as a result of the scheme, on a 60 per cent recycling rate, which is fine. We also talked about the aim of lifting the

recycling rate to 89 per cent, which will increase costs in the scheme, so that 7.5¢ is probably going to rise. I think there was general agreement around that. The minister may have said something during his reply to the second reading debate or during Committee of the Whole.

I asked what happens to the litter or the waste stream left in the yellow bin. The response was something along the lines that some containers that could qualify for the container deposit scheme will be in that yellow bin and that will make the stream more valuable for the shire, local government or operator that picks it up. That should improve their ability to meet their recycling targets or to use that non-refundable trash in the yellow bin. I understand if there is a 60 per cent return rate—we know that some of it will be lost anyway—not all of the remaining 40 per cent will go into the yellow bins. Some of it will. If we are really fair dinkum about a container deposit scheme and the opportunity it provides to not-for-profit groups and potentially the operator and community groups—we have heard about people taking containers out of someone else's bin—we will potentially be left with a lot fewer of those valuable 10¢ containers in the yellow bin. Has any modelling been done on that recycling rate threshold and about the yellow bins costing local government a lot more money than ever envisaged because we have taken out all the valuable waste stream? I think that is still one of the major questions that local governments are going to ask. The government suggested that refundable containers will end up in the yellow bin. What if they do not? What is going to be the recycling regime for those yellow bins in the future? How will that be monitored? What assistance will be given to local governments that find themselves with yellow bin waste comprising only paper, cardboard and low-value products that do not meet the economics of transporting it around this state of ours, from Kununurra to Esperance or anywhere else, into the recycling system? What assurance will be given to local governments that that part of our waste or litter strategy is not going to be missed or forgotten and that this is not our only strategy to address it?

**Hon STEPHEN DAWSON:** The short answer is that no modelling has been done, but that 10¢ amount is essentially to make up for what is missed. I can go back over the process that I explained last night about local governments and material recovery facilities and how they will share the spoils. The other point I make is that local governments have been way ahead of parliamentarians on this issue. They have been calling for a scheme for a very long time. Local governments are onside; they have been part of the roundtable discussions, but also part of the technical working groups and advisory groups that we have for the design of the scheme. From everything I have heard, they are confident with where the scheme is going and where we have landed with the legislation, and they continue to be involved in the work on the regulations. Although some issues could potentially arise in the future, they are not foreseen at this stage, and people are confident that the scheme will work and that local governments will not miss out as a result of the scheme. The experience is that a lot of containers are still in yellow bins in other jurisdictions. Even though they have a scheme in operation, many people still decide to put the can or the bottle in the yellow bin, and then obviously the local government and the MRFs work out who gets what. Does it have the potential to become an issue in the future? Potentially, it does, but it has not been an issue in other jurisdictions, and we do not believe it will be an issue here.

**Hon COLIN HOLT:** I take it that the Western Australian Local Government Association has been pushing for a container deposit scheme, but—surprise, surprise!—I actually talk to local governments in regional Western Australia too, and I get some different stories, so I still have a responsibility to try to get an answer for them. Yes, I agree that they are way ahead of politicians. But I need some assurance about how we are going to deal with the waste. Is the government going to commit to assisting local governments that will get a reduced share of the spoils, as the minister would put it, which will affect their waste stream and how they handle it, and the costs they are going to incur once the reduction in spoils occurs? I know that the minister quotes from other jurisdictions and says that some of those valuable containers still remain in the waste stream. The New South Wales scheme has been going for less than 12 months, I think.

**Hon Stephen Dawson:** It started in December 2017, so it is 14 months. Queensland has been there since November last year.

**Hon COLIN HOLT:** That is a very small frame. Obviously, they have targets of 80 or 90 per cent too, which they will have to build up to. They are not going to reach them in the first instance.

**Hon Stephen Dawson:** Sure; but by way of interjection, we have not looked at just New South Wales and Queensland. South Australia is a similar case. Indeed, as part of the work that we did in putting together a container deposit scheme, we also looked at other jurisdictions overseas. It seems that it is not just New South Wales and Queensland; the same thing has happened in those other jurisdictions too.

**Hon COLIN HOLT:** Again, I come back to what commitment the government will make to assist local governments, especially regional ones, which are going to face the greatest issues around transport and critical mass, to ensure that their now yellow bin waste is managed in an appropriate way for the state and for their own local communities. A really good question is: How is that going to be monitored? What sort of engagement will there be with local governments to make sure that that is all being fed in from those local governments around the

state? What sort of assurance can the government give that they are not going to be forgotten in that waste stream now that we have this whiz-bang container deposit scheme? I think that is a fair enough question to ask.

**Hon STEPHEN DAWSON:** The regulations will require that MRFs enter into revenue-sharing arrangements with local governments. Essentially, they will get a share of the revenue; that is a requirement. I might point out that many regional councils in Western Australia are actually much more advanced than metropolitan ones, and I make that point about Donnybrook–Balingup, Collie and Bunbury. Augusta–Margaret River is the fourth one, and it already has a food organic, garden organic—or FOGO—waste system in place. It has the three-bin system. It is already separating its waste and it is already benefiting from such a scheme.

The scheme coordinator will be responsible for the logistics. Is the government putting money on the table to help local governments in regional Western Australia? No, we do not believe we need to, but it is certainly something that we will monitor as the scheme rolls out. We are committed to making this work right across the state. We believe that it will work in regional Western Australia. From my conversations with a number of local governments, they certainly want to be part of it too, and they will make sure it works. It is something that we will monitor moving forward. If changes need to be tweaked by regulation in the future, we would not rule it out; however, at this stage, I do not think it is warranted, because the evidence from other jurisdictions has shown that it should not be an issue. We will certainly monitor it.

**Hon Dr STEVE THOMAS:** Minister, I am not proposing to go into a great deal more depth, but we will get to a few questions as we get past clause 1. We ended yesterday with the discussion about small brewers, and microbrewers in particular, and I am very pleased to see that the government is looking at potentially trying to mitigate the initial impact of the scheme, so I thank the minister for that. During the second reading debate, the minister made mention of the fact that he and/or the department had undertaken a fair degree of consultation with that particular sector, and it had raised some issues, particularly around early cash flow issues. We do want to look after this group of people. There is potentially a vested interest in these small groups for a regional member of Parliament who represents a large number of those groups. I understand the minister is a sauvignon blanc or a semillon sauvignon blanc man himself, and those will be exempt, so that will be okay.

**Hon Stephen Dawson:** Should I express a conflict of interest there, member?

**Hon Dr STEVE THOMAS:** Perhaps. I would hate it to be seen that the minister's favourite tippie has an exemption over some of these others. It is only because he is such a good fellow that I am looking after his reputation.

**Hon Stephen Dawson:** I also drink beer.

**The DEPUTY CHAIR:** Members, maybe if we can bring the debate back to clause 1 of the bill rather than digressing.

**Hon Dr STEVE THOMAS:** Thank you for the guidance, Mr Deputy Chair.

**Hon Stephen Dawson:** Apologies for interjecting.

**Hon Dr STEVE THOMAS:** The minister did mention that issues had been raised with him, particularly the issue of cash flow. Is the minister in a position to give us an outline of the issues as they were raised and put to him?

**Hon STEPHEN DAWSON:** The issues that were raised with me have probably been similar issues that have been raised with Hon Dr Steve Thomas. Cash flow is an issue. In other states, there has been a registration fee to register containers as part of the scheme. From memory, I think the fee was about \$90. I am told that it was \$80—between \$80 and \$90, I think. Some of the small brewers have indicated to me that such a fee could be prohibitive, particularly if they sell 10 products. I will take Matso's as an example in my own electorate. Matso's brings on more beverages at different times through the season; it brings them on for only a limited time and then they go off again. If we had charged a registration fee for each container, it would have been hit \$80 to \$90 every time—there is a difference of opinion here at the table, but it is between those two figures. That \$800 or \$900 might not seem prohibitive; however, for a small beverage supplier, it potentially could be. As part of our conversations with those small beverage suppliers or brewers, we have agreed that there would not be a registration fee for each new container, so that is a win for them. Also, as I mentioned yesterday, we will be invoicing in arrears. For the small brewers, invoicing will be in arrears of three months; whereas in the case of the larger beverage suppliers, invoicing will be in arrears of a month. This, too, came out of the consultation with them. It will help them with cash flow issues. In other jurisdictions, they have been required to pay in advance—to stump up the cash in advance—not necessarily knowing the amount they will be required to pay. We have taken those issues on board and made those changes in here. Not to go over old ground, but I mentioned those growlers and squealers yesterday. We are allowing them not to be included in the scheme and therefore not to have to pay the 10¢ so it is less of an imposition on those small brewers. We continue to engage with the small brewers as part of our technical working group. We propose to continue those groups meeting, moving forward, as we work on the regulations. We will continue to raise these issues. I am certainly confident that where we have landed thus far, we will ensure that we are taking into consideration the small

brewers and their circumstances, but we will continue to have the conversations and continue to talk to them during the drafting of the regulations.

**Clause put and passed.**

**Clauses 2 to 5 put and passed.**

**Clause 6: Part 5A inserted —**

**The DEPUTY CHAIR:** Members, clause 6 runs from page 3 to page 62 of the bill, which will not make it very easy for us to break down. I suggest that if the chamber agrees, we adopt previous practice of moving through proposed section by proposed section of clause 6. Is there any objection to that course of action?

**Hon Dr STEVE THOMAS:** I have only about three questions. If no other member has questions on clause 6, I suspect we will get through this fairly quickly. Does the member have questions on clause 6?

**Hon Colin Holt:** No.

**Hon Dr STEVE THOMAS:** I will ask them in order. If you put the question for clause 6, Mr Deputy Chair, this will take only 10 minutes.

**The DEPUTY CHAIR:** Unless there are any other views, I might leave it as a clause 6 debate and that will allow us to deal with the issues we need to deal with, and then move on.

**Hon Dr STEVE THOMAS:** The intent is not to delay for too long; we will get through this pretty quickly. In clause 6, proposed section 47A(d) states —

provide opportunities for social enterprise, and benefits for community organisations, ...

Hon Colin Holt mentioned this in his address. It is something the entire house is supportive of—that is, the capacity for scouts and Lions and other community organisations and sporting groups to take capacity.

The minister may not be at the point yet, but I suspect this is something that will be defined in regulation. If a situation arises of competitive conflict between a sporting and a commercial organisation, is there a thought about what mechanism might be used to resolve that or will it be left to the oversight body?

**Hon STEPHEN DAWSON:** The short answer is that it will be an issue for the scheme coordinator. It will be their responsibility to work out. We are mandating some of the communities or the size of communities that need to have a collection depot or a collection point. With the design of this scheme, I have been very keen from the outset to ensure that there are opportunities for social enterprise, particularly with my disability services minister hat on. Representatives from some of those non-government organisations are on the groups designing the scheme. At the end of the day, many people in the community may well decide to donate their cans to a social enterprise, but the scheme allows for a social enterprise to be a collection depot in communities too. It will be an issue for the scheme coordinator to decide, commercially, who they want in a community to be the collection depot but there will be other opportunities for NGOs to collect cans that may be donated as part of the scheme.

**Hon Dr STEVE THOMAS:** Thank you, minister. I suspected that would be the case and would be something that we would have to get to over time. I see the potential for a community group. We used to see it occasionally with aluminium cans.

**Hon STEPHEN DAWSON:** Let me give the member a bit more confidence. As the member said, paragraph (d) of proposed section 47A, “Objects of Part”, states —

provide opportunities for social enterprise, and benefits for community organisations, through participation in the container deposit scheme; ...

The scheme encourages participation of those social enterprises. This can be as a refund point operator collection point or as a recipient, as I mentioned previously, or, indeed, in other roles potentially in, say, the role of logistics. Because the scheme coordinator must achieve the objects of the bill, it is certainly the intention, the view and the belief that NGOs, for example, will be part of the delivery of the scheme and will feature prominently as collection depots and other things.

**Hon Dr STEVE THOMAS:** Thank you, minister. We will have to see how that pans out. There will be a bit of smoothing over as we go, I suspect. I remember the days 20 or 25 years ago when there was a bit more fierce competition for aluminium cans. I am interested to see when we start a slightly more commercial venture with commercial competition and how we might manage that. Let us wait and see how we go in the process.

**Hon Stephen Dawson:** Some of these not-for-profit organisations, the NGOs, are commercial enterprises. Some of them have workshops that employ people with disabilities of different levels. They are providing services to government departments and private enterprise at the moment. They are commercially viable and commercially

competitive. I have no doubt they will feature as part of the scheme. Let us watch it. The point you are making is let us watch with interest.

**Hon Dr STEVE THOMAS:** It is part of the very big suck-it-and-see component over time that will potentially need some fine-tuning, and that is fine. We are nearly there.

Proposed sections 47G and 47H deal effectively with the skeletal legislative framework that will allow the definition of those containers that will be part of the process. I am interested to see how difficult the process might be of making change going forward. The minister and I may have the same ultimate intent but a difference of opinion about how easily some of those small dual plastic-cardboard or multiple plastic beverage containers can be recycled. How simple or easy will it be? Will it be a fairly simple regulatory tabling process if change is required? How will a business that puts out a 200-millilitre juice or milk product in a plastic-cardboard mix try to convince the government that even with the best intent, the recycling rates are very difficult on these products particularly, for example, if the marketplace steps out? I am thinking particularly if a marketplace is available, but that market changes, change may have to be made fairly quickly. How will the legislation, or the regulations ultimately, allow that to happen?

**Hon STEPHEN DAWSON:** The short answer is that it is relatively easy to change the regulations, so we will be mindful of those issues if they arise and certainly will be open to bringing more regulations before the Parliament if need be to address the issues.

**Hon Dr STEVE THOMAS:** This is pretty much my last question. Proposed section 47J on page 15 provides that the refund amount will be set by regulation. I guess my question is more of a logistical legislative one. Was any thought given to legislating the refund amount? Obviously, it would be far easier to change it. Would it even be possible to set the amount? We talked about 10¢ as the refund amount. I fully accept that is the government's intent but, in effect, we are legislating the capacity to support the regulations to set an amount, which is just a little bit different. There may be a good legislative reason why it is done that way. I am not suggesting the government has a secret agenda to triple it when we are not looking, but I am just wondering about the legislative mechanism that got us to this particular point.

**Hon STEPHEN DAWSON:** No, we did not think of putting that amount in the bill. Because of national mutual recognition laws, we need to get other states and territories to actually sign off or approve such a fee, in the case of that 10¢. They have to be nationally consistent, and other states and territories and, in fact, New Zealand have to agree to the fee that we will collect as part of the container deposit scheme. I can assure members that it is not as simple as me waking up one morning and thinking, "Okay, let's double that container amount to 20¢ or more". Quite a detailed process actually has to be gone through to get the other states, territories and jurisdictions to sign off on it.

**Hon Dr Steve Thomas:** By interjection, that would be if it does nationalise, ultimately?

**Hon STEPHEN DAWSON:** No, even at the moment with us running our own scheme, we still have to get the other states and territories to sign off on that amount and certain aspects of the scheme because of national mutual recognition laws.

**Hon COLIN HOLT:** This will probably be my last question, too. Proposed section 47B provides for the appointment of a coordinator of the scheme. Is it envisaged that there could potentially be more than one coordinator? I am thinking of scenarios in which, potentially, the coordinator might come and say, "Actually, I don't mind tackling the south west of the state, but not the north west". If that is the case, has some thought been given to how we would deal with that, and the potential for two or more coordinators in this space, as a strategy to manage any proposals?

**Hon STEPHEN DAWSON:** No, it has not been countenanced that we would have more than one scheme coordinator in the state. Certainly, the other jurisdictions in Australia that have this scheme in operation have only one scheme coordinator, as do the other jurisdictions that we visited while we were putting this scheme together. Our scheme is modelled on that of Queensland. Although Queensland is not as large as Western Australia, it certainly has many of the same regional and remote community attributes of Western Australia. South Australia has super collectors that operate, so there may well be some collectors in the south west of the state that collect on behalf of the scheme coordinator or someone in the north west who collects on behalf of the scheme coordinator, but it is just one scheme coordinator. That makes for an easier system and enables us to, I guess, spread the costs across the state, so we are not saying that people in one area of the state will pay more because it costs more to get stuff down from, say, Bidadanga or wherever else. It is one scheme, and I think that is probably the best way to go, from my perspective.

**Hon COLIN HOLT:** It just seems a little odd that we have enabling legislation that allows so much flexibility under regulations, yet we are writing hard and fast into the bill that there will be only one coordinator of the scheme. I understand the rationale behind economies of scale and cross-subsidisation around areas that have more

waste than others, but I just do not understand this approach. We are going to be flexible everywhere else and ask the Parliament to pass skeletal legislation, yet this provision seems to be so hard and fast.

**Hon STEPHEN DAWSON:** I guess I am asking the Parliament to pass what we believe is the best form of legislation. Having one scheme coordinator leads to efficiencies; having multiple scheme coordinators does not. Again, we have modelled this on Queensland but we have also modelled it on other jurisdictions around the world and this, from my perspective, is the way to go. Although there will be a lot of detail in the regulations of the scheme, as we spoke about yesterday and a bit today, this is one area in which I do not think there should be flexibility or the ability to have more than one scheme coordinator, because I actually think it makes for a messier scheme and makes it harder for the community. I do not think it would lead to us having the best container deposit scheme in Western Australia. It is for those reasons that it is in there as it is.

**Hon COLIN HOLT:** I tend to agree with the minister about having one scheme coordinator; I am just not sure why it is so hard and fast in the legislation when everything else is not.

**Hon Dr STEVE THOMAS:** Just following on very quickly from Hon Colin Holt, the minister gave an indication that the scheme coordinator has not been picked yet. We have asked roughly what the time frame looks like. Is there any indication of the month by which the minister would expect to appoint the scheme coordinator?

**Hon STEPHEN DAWSON:** I imagine we would be in a position to appoint the scheme coordinator within the next few months, so April or May. I think I mentioned this last night, but that actually depends upon the passage of the legislation before the Parliament. Once we have passed the legislation, it will give us and the applicants some confidence about what the scheme will look like, and then we will be in a position to appoint somebody.

**Clause put and passed.**

**Clauses 7 and 8 put and passed.**

**Title put and passed.**