

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

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 6: Part 5A inserted —

Debate was interrupted after the clause had been partly considered.

Dr D.J. HONEY: Before debate was interrupted, we were referring to proposed section 47D(6) at the bottom of page 10 of the bill before us. The question I asked earlier was about a concern I had that perhaps a supplier or distributor who had significant market power could contract their responsibilities under this legislation to the vendor. This provision seems to allow that to happen. Could that occur and is there any control to prevent that from occurring? Obviously, I am concerned that would be seen to frustrate the government's intention.

Mr R.R. WHITBY: I thank the member for the question. Proposed subsection (6) that he refers to enables the minister to protect businesses when a bigger business is trying to push down the chain the responsibility of being a first provider of introducing a product to the market. I know the issue that the member is concerned about, but this enables, through regulation, the minister to step in to ensure that abuse does not happen. It applies in other states and it works in other jurisdictions to ensure that protection is there so that a supplier in the market cannot get out of their responsibility under this legislation.

Dr D.J. HONEY: I am interested in the nature of the agreements under proposed section 47E(2)(a), which states —
a supply agreement is in force between the person and the Coordinator

Can the parliamentary secretary tell me a little about the nature of that agreement, please?

Mr R.R. WHITBY: That provision deals with the regulations that set out how payments operate and contracts will be conducted. That detail will be in the regulation, but it is about how the relationship and the agreements for costs will be operated and maintained.

I foreshadow that I would like to seek leave to move my amendments to clause 6 en bloc as they are listed in the back of the notice paper. These amendments are essentially the result of independent accounting advice to ensure that the scheme coordinator is not a controlled entity under the Australian Accounting Standards.

The DEPUTY SPEAKER: Leave is granted.

Mr R.R. WHITBY — by leave: I move —

Page 16, lines 20 to 27 — To delete the lines and substitute —

(2) The Minister may direct the Coordinator to act as a refund point operator in respect of a refund point —

(a) if —

(i) persons in part of the community do not have reasonable access to a refund point; and

(ii) the Coordinator has not identified another person with whom to enter into a refund point agreement to operate the refund point;

or

(b) if the achievement of the objects of this Part may be materially adversely affected without the provision of the refund point.

Page 16, lines 28 to 30 — To delete the lines.

Page 30, after line 1 — To insert —

(4) Regulations may deal with any matter in relation to the Minister's approval under subsection (3)(a)(iv) and (e)(iv) and may (without limitation) deal with the grounds on which the Minister may refuse to approve a person.

Page 31, after line 8 — To insert —

(3) Regulations may deal with any matter in relation to the Minister's power to attach conditions under subsection (1) or amend or revoke or attach new conditions under section 47ZQ(1)(a) and may (without limitation) deal with the content of a condition or amendment.

Page 44, lines 10 to 17 — To delete the lines and substitute —

- (1) The Minister may —
 - (a) give written directions to the Coordinator with respect to the performance of its functions under this or any other Act, either generally or in relation to a particular matter; and
 - (b) amend or revoke a direction given under paragraph (a).
- (2) Regulations may deal with any matter in relation to a power of the Minister under subsection (1) and may (without limitation) deal with —
 - (a) the grounds on which the Minister may give, amend or revoke a direction; and
 - (b) the process that must be followed in relation to the giving, amending or revoking of a direction; and
 - (c) the content of a direction or amendment.

Mrs A.K. HAYDEN: Before we move on, I would like to ask some questions under clause 6.

The DEPUTY SPEAKER: Is the member asking a question about the amendments?

Mrs A.K. HAYDEN: No.

The DEPUTY SPEAKER: We are debating the amendments now.

Dr D.J. HONEY: Just to be clear for my fellow member, it is my understanding that we are dealing with only the amendments now and then we will go back to consideration in detail of clause 6 after we have accepted these amendments.

The DEPUTY SPEAKER: That is quite correct; we can go forwards and backwards within the clause with no problem at all. We are now discussing the amendments.

Amendments put and passed.

Mrs A.K. HAYDEN: I congratulate the parliamentary secretary on his first piece of legislation in this place. I want to go over the issue that was raised in the second reading debate about our small suppliers—our microbreweries and cideries. As the parliamentary secretary is well aware, Darling Range has a number of cideries and microbreweries. I refer to proposed section 47D, “First responsible supplier”. The parliamentary secretary indicated in response to the line of questioning today that a small provider will be able to pay their bill of 10¢ per bottle after the bottle has been returned, but he also explained that they will be required to be a first supplier and to put labels on their bottles and organise the administration of that and so forth. I know that the minister has met the Western Australian Brewers Association. The government has said in all its dialogue that it is respectful of the position of these small business operators and will do something for them, but I am trying to work out what that will be. This will place a massive burden and cost on them through labelling and administration. I know the parliamentary secretary is saying that it is an industry charge of 10¢, but they will pass this on to consumers. This will be detrimental to this industry. Can the parliamentary secretary explain how the government plans to protect these small business operators when all that it has been outlined so far is that they will be treated just like any other supplier, other than that they will pay for it afterwards?

Mr R.R. WHITBY: I thank the member for Darling Range. I think many of my constituents are regulars at one of the popular breweries in her electorate.

Mrs A.K. Hayden: I encourage them to keep coming back.

Mr R.R. WHITBY: Indeed. One has to book to get in there.

There has been a lot of consultation with the small breweries. Indeed, a representative of that group has approached me personally. One key issue was the situation that occurred in New South Wales, where they were required to pay up-front. That is something we have removed under this legislation, not just for small brewers, but everyone. It is an arrears situation. Once a product has been sold and the producer has gained an income from that, at the point at which one of those containers is returned for refund, the producer will be required to pay for that refund of 10¢ and the other costs. As I explained previously, because the rate of return is never 100 per cent, the true cost to producers is something less than 10¢ overall. The investigation of the experience in New South Wales found that it actually had no impact on the competitive market, including in the beer industry. That was reassuring.

The other issue was the registration costs for the labelling and the assessment of it, to ensure that it meets the requirements under the legislation. Again, in other jurisdictions there is a charge every time that happens, which can be quite a few times for small brewers that have a large range of products and different labelling and different cans and bottles. That is removed for them. That may sound like a small amount, but with the tight margins the member spoke of, it is helpful. The other thing to remember is that they have representation on the technical working group, which will go through the regulations. They will have direct input into that process. Indeed, the

board that will oversee the whole system has provision for a representative to be a small brewer or small beverage entity. It is likely that that industry will be represented directly on an ongoing basis. We are very keen to protect this emerging industry. I have a small brewer in my electorate and there is one across the freeway in the member's electorate, so we are mindful of protecting this industry as much as possible. The thing to remember is that, as others have said, we need consistency across the market so as to not confuse consumers and to make it easy for them. To leave out one particular industry would throw a spanner in the works and create confusion. We want consistency within the state and across jurisdictions, so we are trying to match what is happening in other states as well.

Mrs A.K. HAYDEN: The parliamentary secretary is basically saying that large and small businesses will have the same exemptions—they will be treated exactly the same. My concern is that although the government says it is listening to the microbreweries and cideries and is trying to help them, they are getting the same treatment as the big boys. I understand that large wine bottles are being excluded. That is an inconsistency. If large wine bottles will be excluded from this, why can we not simply exclude our small businesses—our microbreweries and cideries? The wine industry is being excluded, but not the beer and cider industry. That is where I think we have a bit of a gap here.

Mr R.R. WHITBY: I understand the point the member for Darling Range has made, but I remind her that the changes to be introduced through this legislation are certainly what the industry has asked us to provide. The cash flow issue that caught out some of the small brewers in New South Wales was a major concern. The provisions in this bill have been a major relief for them. This is not the end of the process. As I said, they will have ongoing involvement in the process. This legislation is providing the head powers, and the regulations will come. There is still an opportunity to work with the small brewers to ensure that other concerns are taken into account. Those regulations will come back to Parliament and I am sure the member will be able to scrutinise them as well. This is not the end of the story. The process will continue. We will be looking at other ways in which we can assist the small brewers.

The member made a point about wine bottles. That is a legitimate issue to raise. Again, it is about consistency. Most of the litter out there is beverage containers that are consumed out and about in the community—in the car—and discarded —

Mrs A.K. Hayden: Hopefully, they are not consuming beer in the car.

Mr R.R. WHITBY: That is a very good point. Most of the beverage containers for which we are trying to arrange a refund to get them back into recycling and to reduce litter are small containers or containers that are used away from the home. The member will not find many wine bottles on the roadside. She might find some, but wine bottles do not constitute a large portion of the litter that is out there. This is really about providing a refund to ensure the recycling of, and a reduction in litter from, beverage containers that are consumed away from the home. I think we would agree that most wine is consumed in the home and that we do not see many wine bottles on the roadside. Again, it is about having a simple and consistent scheme not just in Western Australia, but also across the nation.

Mrs A.K. HAYDEN: I appreciate the parliamentary secretary's explanation. I understand it will go through regulation. The regulations will not come before this place. They will go through the Joint Standing Committee on Delegated Legislation—there are very good people on that committee—and then it will be debated in the upper house. I sat on the Joint Standing Committee on Delegated Legislation, for my penance, for my first four years in the upper house, and a lot goes through that committee. What is discussed in this place will determine what the regulations are guided by. The government is focused on supporting small business, creating jobs and trying to do the right thing for our economy, but small businesses will be burdened with more red tape by having to do the labels and be part of this system. We are excluding wine bottles, but we cannot exclude our small microbreweries and cideries. Is the government's intent to exclude small microbreweries and cideries from this scheme, like wine bottles? If so, it would be very helpful if it were in *Hansard* for when the regulations are done so that the people who make those regulations can read the debate we have had today.

The parliamentary secretary said that he and the minister have been dealing with the Western Australia Brewers Association and he is happy to work with them. If there is an opportunity to have microbreweries excluded from the system like wine bottles are, I ask that the parliamentary secretary and the minister in the upper house make that point clear in *Hansard* so that when the regulations are drawn up, we will not have this argument in the Joint Standing Committee on Delegated Legislation and in the upper house in time to come.

Mr R.R. WHITBY: I reinforce that we have some very good members on the Joint Standing Committee on Delegated Legislation and I am sure that they will be alert to these issues and the industry will be keen to make it aware of any issues that it believes are still issues. The issue with treating, essentially, a stubbie differently from another one is a recipe for confusion within the community. It would be very hard to educate people that they can get a refund for a stubbie that may appear to be from a boutique brewer but is produced by one of the big brewing companies—many of them are labelled like that these days—but they cannot get a refund for another product from a smaller brewer? I think it would have a detrimental effect on what we are trying to achieve, which is a reduction

in litter of these beverage containers across the board. The different treatment between a bottle of wine and a bottle of beer I think is obvious to most. Wine bottles are not something we take out and discard as much as those smaller containers. There needs to be a different treatment. Again, it needs to be consistent across the nation to be simple and understood by consumers.

I share the member's concern about small brewers and the need to give them as much support and assistance as we can. I think we have gone a long way already. Small brewers in other states have not received these things. As I said, there has been some pain in New South Wales because of the process of paying that money up-front and not in arrears—but, again, this is an ongoing process. We are very much keen to work with the industry and we will be doing that.

Dr D.J. HONEY: On the point that the member for Darling Range was pursuing—I heard the parliamentary secretary's last answer—I understand from this that the administrator, with the agreement of the minister, could choose to exclude a particular beverage supplier or distributor if they wished to.

Mr R.R. WHITBY: The fact is that the scheme coordinator certainly does not have that power. The scheme administrator may do, which would be the department. But again, we would be very cautious about that for the reasons that I have already stated. It is about consistency and having a national scheme that does not confuse consumers. I think that would be my response.

Dr D.J. HONEY: I thank the parliamentary secretary for that explanation. I refer to proposed section 47G, and those following, that have a number of provisions relating to approvals for containers. It is not clear to me—it does not mean that it is not correct; it is just my reading of or lack thereof of reading the act—what the process is if a container is deemed to be subject to the refund but the company wants to appeal that. As we saw in the presentation that was given to us, a range of containers is included and a range is not included, and a beverage provider may say, “I do not think my container should be included in this scheme.” What is its right of appeal or process of appeal? I assumed it would be through the State Administrative Tribunal, but it was not clear to me whether that was the case from reading the bill. The relevant provisions are proposed sections 47G to 47H on pages 12, 13 and 14.

Mr R.R. WHITBY: The explanation that I give to the member is very simple. Whether a container meets the requirements for categorisation as eligible for a refund is self-evident. There is no right of appeal short of someone taking a judicial course. There is an obvious categorisation of what would be an eligible container.

Dr D.J. HONEY: I guess we will have to go through it and see how this works, but I would have thought that having an appeal process would be sensible, because I can imagine that there could be again definitional differences at the margins, but the parliamentary secretary has given me his answer.

Can we move on to proposed section 47I in clause 6? Maybe the parliamentary secretary will indulge me on this one. This is a broader question, rather than a question on the specific proposed sections here. I understood from the presentation that was given to us that in the original model, additional moneys could be generated in this scheme because the distributor or whoever is supplying the beverage, whatever form it takes, has to pay 10¢ per container, and that would go into a trust fund managed by the administrator. The payment for the beverage container would ultimately come out of that trust fund, so, at the end of the day, for any containers that were not returned, there would be a net profit, if you like, in that fund, and that profit would be used to manage the fund.

The parliamentary secretary said in his speech today that he understood that could put a burden on potential manufacturers, particularly small manufacturers. Therefore, the scheme would operate in a retrospective fashion, whereby the 10¢ would be paid to the person who delivered the container to the collection point, and, through some mechanism, the supplier would be invoiced or billed for that amount of money. I think that is what the parliamentary secretary said, but I am happy for him to correct me. Under that scenario, there would be no potential profit. The only money that would come from the supplier would be for the containers that are returned. If 10¢ came from the supplier and 10¢ was paid for the returned container, there would be no money to pay for the administration of the scheme. There would be no net profit. No money would be paid by the supplier for containers that are not returned. It would be a zero sum. Therefore, because additional money would need to be provided for the administrator and the board and all the mechanisms required to run this scheme, surely there would need to be an additional call on funds from the manufacturers or suppliers. When I first heard about this scheme, I thought it would generate a profit. It would be an undesirable profit in a sense, because we want as many containers to be returned as possible, but it would equate to the value of the containers that are not returned. However, under the mechanism that the parliamentary secretary described today, there will not be a profit. It will be a zero sum. Therefore, the money required to run the scheme will need to come from somewhere else. That is what I am getting at. I am happy for the parliamentary secretary to educate me on this, but, if I am correct, where will the money to run this scheme come from?

Mr R.R. WHITBY: I will explain it, as I did previously. The scheme coordinator will be a not-for-profit organisation, so it will not be looking to build a profit margin into the scheme. As the member rightly said, it will be an arrears situation. The scheme will kick in once the container is returned for a refund and the 10¢ is paid to the consumer. It is a zero sum game, because the manufacturer will increase charges by 10¢ and the consumer will be refunded 10¢. That is essentially the way it will operate. There will obviously be a cost for administration and for handling and transporting the beverage containers. The beverage industry will be obliged to pay the cost of the refund, plus the handling fee. So, at one accounting level, the manufacturer will incur another cost for each returned unit. The issue is, as we discussed earlier, that not all containers are returned. Therefore, the manufacturer will pay the 10¢ refund and handling fees on only the portion of containers that re-enter the system. The New South Wales experience has shown that the cost to the manufacturer has been 10¢ on average, and the impact on the consumer has been around 7.5¢ a unit. It will not be an up-front situation whereby a cost is imposed on every single beverage container, which would then require extra funding for the scheme. That has been the experience in both New South Wales and Queensland, on which our legislation is largely modelled.

Dr D.J. HONEY: I think I understand that. I was just going through the arithmetic in my head. Arithmetically, the result could be the same, so long as the average cost that comes back to the manufacturer for the container is not more than 10¢. That has made it clear to me. It will be 10¢ per container, plus another amount if required for the administration of the scheme.

Proposed section 47J on page 15 is headed “Refund amount”. The amount prescribed in the regulations is 10¢. I assume that is a nominal amount at this stage and will be reviewed from time to time.

Mr R.R. WHITBY: Again, it is a matter of national consistency. We are dealing with beverage producers that operate across the nation. Certainly, 10¢ will be the figure at the proclamation of this bill, and that will be ongoing for some time to maintain that national consistency. I guess in the future that may be reviewed, but we do not foresee that happening for many years, given the experience in South Australia, in which 10¢ has been the standard for four decades, I believe.

Dr D.J. HONEY: I refer now to proposed section 47L. Could the coordinator be a contractor such as Brambles or a large company? I have heard mention of a not-for-profit company. Could the coordinator also be a profit-making company?

Mr R.R. WHITBY: The legislation requires that this will be the coordinator’s only enterprise. They will operate as a not-for-profit. It will be their only job, if you like.

Dr D.J. HONEY: Proposed section 47M provides that the container must not be disposed of in a prohibited manner. I understand the intent of that, as I discussed in my contribution to the second reading debate. Could the parliamentary secretary clarify what would happen if a container could not be recycled? I raised the example of so-called cardboard drink containers that are in fact a complex blend of materials that are difficult to recycle. What would happen if the container cannot be recycled and there is no alternative? Perhaps that is explained in proposed subsection (6), but could the parliamentary secretary please explain that to me?

Mr R.R. WHITBY: If a beverage container cannot be recycled, it cannot be registered as an eligible container and cannot be part of the process. The idea behind this is that it will be an incentive for a person who is keen to market a beverage to create a container that will be approved so that they can get it to market. If the container is unable to be recycled, it cannot be part of this scheme.

Dr D.J. HONEY: When I looked at the presentation, it said that those specific drink containers—I guess that is the one I am referring to, or there may be others—and other so-called cardboard drink containers will be included in the scheme. I understood that they could not be recycled. I am not saying that technically they could not be recycled but, in practice, they are not recycled because that facility is not available locally. Am I to understand that if a genuine reuse or recycle facility was not available for that product, the manufacturers, as I think the parliamentary secretary alluded to, would be banned from selling that product in the state because it is included in the list of things that will be subject to this scheme?

Mr R.R. WHITBY: My advice is that a manufacturer has to produce a recyclable product in order to be able to sell it to the market. This is a standard provision across Australia. Every other jurisdiction would require the same standard. The member raised the question of a cardboard beverage container that may have to be taken interstate. If it is approved for sale in Western Australia, it can be recycled here. Those standards are the same in all states. I think the cardboard flavoured-milk containers are probably the obvious ones. They may not be able to be recycled in Western Australia but they certainly can be taken to a recycling facility within Australia.

Dr D.J. HONEY: Proposed section 47N is the extraordinary circumstances exemption. Maybe there is an opportunity there. That is fine. The parliamentary secretary has answered the question.

Still on clause 6, I turn to proposed section 47O, “Supply agreement”. I am concerned about how efficiency is driven in this process. It seems as though it is a cost-plus process; that is, whatever costs the administrator and coordinator

incur in this process are simply passed back to the operator. I am sure they are all well-meaning people. There seem to be a lot of checks and balances in that provision. The minister has to give approval to ensure that the right sort of people are chosen to run this scheme, but even well-meaning people can be very inefficient. What drives that management process to be financially efficient so that we are not unfairly burdening manufacturers or distributors?

Mr R.R. WHITBY: The coordinator who will eventually be appointed would be a sophisticated operator—someone who would be capable of running this process. I repeat that it is a not-for-profit situation for them. We would be very keen to ensure that it was run by a capable entity that demonstrated the skills and capacity needed to run an efficient operation. There would also be an ongoing independent audit of the processes involved—things like the rate of return, the refund payments and keeping an eye on probity. If there was ever a concern, the minister would be able to step in to ensure that there was no unnecessary waste or excessive costs. We would choose a very capable operator to be the scheme coordinator. Checks and balances would be conducted by way of an independent audit and the minister would have the ability to intervene if things did not look as they should.

Dr D.J. HONEY: I see that later in the legislation there are proposed sections relating to the minister approving a business plan. Would that ultimately be the mechanism that the minister could use to drive or to ensure efficiency in that process? Would the business plan go to that level of how they are effectively and efficiently running their business?

Mr R.R. WHITBY: Yes, indeed. The business plan would give very broad powers to the minister to ensure driving efficiencies. In addition, the regulations would ensure efficiency in the system.

Dr D.J. HONEY: There may be a simple answer to this question. I turn to proposed section 47P, “Export rebate agreement”. Is that export rebate agreement between Western Australia and overseas or does that also include interstate export?

Mr R.R. WHITBY: We do not anticipate this provision having any application in the usual course. It was developed as part of the broader process. With the arrears provision, we do not see it applying. I guess if there were a change in circumstances and product was exported and not sold in this state, there would have to be that rebate facility.

Dr D.J. HONEY: As the parliamentary secretary was thinking about that, I realised that that would be the case. If it were the other way around, I could imagine people who were less than honest trying to export something over the border and then bringing it back to escape the scheme. That neatly deals with that problem.

I refer to division 5 on page 27 of the bill. I am fine with all those bits in between. Down the bottom, I am interested in the definitions of “major beverage supplier” and “minor beverage supplier”. Is there any more granularity in the difference between a major beverage supplier and a minor beverage supplier or will that be in the regulations?

Mr R.R. WHITBY: What constitutes a major or minor producer will be determined by regulation, but it will essentially allow for the composition of the board. We want someone from a minor producer and a major producer. That will allow for good diversity of board representation.

Dr D.J. HONEY: At page 28, proposed section 47V(2)(a) requires the company to maintain a board of nine directors. To shortcut this process, I take it that the reason there will be so many directors, which seems unusual, is to ensure that there is broad input. Will those directors be remunerated for their participation on the board?

Mr R.R. WHITBY: We believe that that number is needed for broad representation. Remuneration will be provided but a figure has not yet been decided upon. That will be dealt with by regulation and the constitution of the board. The minister will be able to have a say on whether that remuneration is too great or too little.

Dr D.J. HONEY: The parliamentary secretary can probably guess my concern—that is, that will be an additional cost to go back to the distributors or the manufacturers. Any number multiplied by nine is quite a lot. I assume that the minister is conscious of that.

I now turn to page 30 and proposed section 47X, “Appointment of Coordinator”. I saw some press that suggested a process was already underway to appoint the administrator. I wonder whether that has already commenced. So that we do not go through a tortuous exercise, I just want to pre-empt my concern that the bill has not been passed; it has been amended. As I understand it, the larger part of this will lie in the regulations, so how will the process to select an administrator—I do not think it is a coordinator—occur when those things are still uncertain?

Mr R.R. WHITBY: I remember the concerns that the member expressed yesterday. No scheme coordinator will be appointed before the bill passes Parliament. We have gone to market to seek interest to try to narrow down a preferred applicant. Given that there is still a process to go through when this legislation is passed—there are regulations and contracts to be drawn up—we thought it would be best to start the process of finding a suitable and credible scheme coordinator now. But no formal appointment will be made until the bill is passed and this

process occurs. We are simply attracting that interest from suitable parties and beginning a process without any formal appointment.

Dr D.J. HONEY: To be clear on that, is a candidate for that position being shortlisted now or is the government simply seeking suitable potential candidates for shortlisting?

Mr R.R. WHITBY: As I said, there is a process afoot to prepare and find out whether there is interest in the community and to make sure that we get the right group. There are a couple of phases to the process. A preferred respondent will be selected but, again, no official appointment will be made before the legislation is passed. Anyone involved in that process will know the process and that no official appointment will be made until the legislation is passed. However, it continues a process whereby we want the scheme coordinator up and running to give them plenty of time to bed down their business in preparation for the start of this scheme. We believe it will be early 2020. There is a process afoot. There is a process whereby we will get a preferred respondent and then we will wait for the legislation before reaching any formal agreement with that party.

Dr D.J. HONEY: To be clear, if I understand the process, the government has sought potential or eligible or suitable parties. Those eligible parties will know whether they have been shortlisted and an appointment will be made once the legislation has been passed.

Mr R.R. WHITBY: At the moment the people who have expressed an interest will not know anything because a decision has not been made, but at one point in the future a preferred respondent will be selected.

Dr D.J. HONEY: I turn to proposed section 47X(4)(b) on page 31. I was perturbed by the idea of an indefinite appointment. I cannot imagine any other government appointment in which, effectively, a contractor is given an option to be appointed for an indefinite period. I take it from reading subsequent proposed sections that the minister will have the power to dismiss whomever is appointed for whatever period?

Mr R.R. WHITBY: Yes. The language in the bill has its origins in Queensland legislation, which this bill is modelled on. Certainly, the intention is that the appointment will be for a period of seven years. That will be made clear in the procurement process for a scheme coordinator. It certainly will be a seven-year period. It will not be an indefinite term.

Dr D.J. HONEY: I think the parliamentary secretary answered this in his second reading reply. A number of concerns have been expressed about how smaller communities will be taken care of. I suspect it was in the amendments. The minister will be alive to this issue and, when appropriate, will direct the coordinator to ensure that those smaller communities have adequate return facilities so that country or regional people who are not paying for the scheme are also not benefiting from the scheme.

Mr R.R. WHITBY: Certainly. This is something we are very aware of and awake to. We are a big state and we are making a particular effort to make sure we have minimum standards of service across the state. Obviously, it is a difficult thing to provide to very remote communities and therefore the scheme coordinator, as a last resort, could step in. We do not anticipate that happening too regularly, but it is an option to ensure a last layer of protection for consumers. The intent is that if a person purchases an eligible product and they are entitled to a refund, they should get it—it should not be impossible. Certainly, people living in major regional centres and in the city will find it easier, but we will go to great lengths to ensure that there are minimum service standards across the state.

Dr D.J. HONEY: Thank you, Chair. You will be relieved to know that I am getting to my fourth-last tab. I refer to clause 6 and proposed section 47ZO, “Regulations relating to the Scheme Account and governance plans”. There are a number of regulations. What is the audit capacity? A number of matters are outlined. Is a routine audit applied or is there an audit capacity for the scheme?

Mr R.R. WHITBY: The audit requirements will be set out in regulations but they will oblige the scheme coordinator to have its own audit capacity. As another layer, there will be an independent auditor and finally, at a ministerial level, there will be the ability to intervene and investigate, so there are three levels of audit.

Dr D.J. HONEY: This is a general question about proposed section 47ZR, which relates to the administration procedures. I do not want to go through the proposed subsections one by one, but I am after advice. Is this appointment of administrative powers relatively parallel to the appointment of administrative powers for a local government or some other body, for example? I do not want to go through them, but are they typical administrative powers or is there something special in these powers?

Mr R.R. WHITBY: The analogy the member made with local government is probably appropriate. It would be the standard oversight and, in the case of a local government that was not performing and the administrator or commissioners had to step in, that would be a similar scenario.

Dr D.J. HONEY: Just to be clear, I am not saying these are exactly the same, but are they quite similar?

Mr R.R. Whitby: Yes.

Dr D.J. HONEY: They are all the questions I have on clause 6.

Clause, as amended, put and passed.

Clause 7: Section 69 amended —

Dr D.J. HONEY: I have only one question. It is really just a semantic question and it could be that I am not reading it correctly. Subclause (1) reads —

In section 69 delete “A person other than” and insert:

(1) A person other than

I am not quite sure of the semantic difference between those two. It looks to me that they are identical but I am quite happy to be educated.

Mr R.R. WHITBY: We thought you stumped us there, member, but the advice I have is that it will set out a subsection.

Dr D.J. HONEY: So the “(1)” is the important bit?

Mr R.R. Whitby: Yes.

Dr D.J. HONEY: It was not my intention to stump the parliamentary secretary; I was genuinely bemused. I understand. I indicate that I do not have any other questions on clause 7 and, for efficient progress, I indicate that I do not have any questions on the second bill.

Clause put and passed.

Clause 8 put and passed.

Title put and passed.

Third Reading

MR R.R. WHITBY (Baldivis — Parliamentary Secretary) [4.36 pm]: I move —

That the bill be now read a third time.

DR D.J. HONEY (Cottesloe) [4.36 pm]: I will not hold members up; I am not here to repeat what I said before. I thank the parliamentary secretary and the minister’s staff for their assistance. I wish to reiterate that this is clearly an important plank in eliminating waste, particularly that which is being sent to landfill. As we discussed in detail and a number of members contributed, we should have a goal in this place to do that for all things that are sent to landfill. It causes a range of environmental issues and this is a good step in eliminating a significant portion—maybe 35 per cent or more—of the landfill going to waste.

I will highlight two areas of ongoing concern, despite the answers that have been given during the consideration in detail stage. I am concerned that this legislation will unfairly impact on smaller producers, particularly boutique drink producers, whether they make beer or some other beverage. I think we need to look at that very closely. It has the real potential to impact those businesses. Typically, they are on very small margins, sometimes in the order of cents, and they are in a highly competitive market. Many members would know there is a large range of boutique beers and if this will put up the price for one producer above others, it could have quite a deleterious impact on the business.

The other area I am still quite concerned about—I appreciate the government’s good intent in trying to deal with this matter—is the smaller communities that will ultimately pay but may not benefit from this. I appreciate that the government has a mechanism in the bill to try to deal with this—being able to direct the coordinator to provide a facility. However, it may simply be impractical in some of those communities. That is something we will have to watch. It would be very unfair if small communities, particularly regional communities, were hit with this cost, which could be quite a significant cost in those communities, and they do not have the opportunity to benefit from the refund.

Otherwise, I commend the bill to the house and I congratulate the government for bringing it forward.

MR R.R. WHITBY (Baldivis — Parliamentary Secretary) [4.40 pm] — in reply: Very quickly, before the motion is put, I would again like to thank everyone who has contributed to the debate on this bill, particularly the member for Cottesloe, who led the opposition on the debate. I think it is obvious that all parties support this scheme. It has the overwhelming support of the vast majority of Western Australians. We are very mindful of the particular place of small breweries and small communities and we will be very mindful of serving their interest too as regulations are developed.

Extract from *Hansard*

[ASSEMBLY — Thursday, 21 February 2019]

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Dr David Honey; Mr Reece Whitby; Mrs Alyssa Hayden

I commend this bill to the house. It is one that will be a win for the environment and a win in getting the best possible container deposit scheme in the country. I think we have had an opportunity to learn from other jurisdictions and this will be a superior bill to those in other jurisdictions and I certainly commend it to the house.

Question put and passed.

Bill read a third time and transmitted to the Council.