

Waste Reduction and Recycling (Strengthening the Container Refund Scheme) Amendment Bill 2026

Explanatory Notes

Short title

The short title of the Bill is the Waste Reduction and Recycling (Strengthening the Container Refund Scheme) Amendment Bill 2026.

Policy objectives and the reasons for them

The primary objective of the Waste Reduction and Recycling (Strengthening the Container Refund Scheme) Amendment Bill 2026 (the Bill) is to improve oversight and governance arrangements of Queensland's Container Refund Scheme (the Scheme). Specifically, the Bill amends the *Waste Reduction and Recycling Act 2011* (WRR Act) to enhance oversight mechanisms and arrangements, improve governance and accountability and increase transparency of the Scheme.

The Scheme began operating in November 2018 and aims to decrease the amount of littering and disposal to landfill of empty beverage containers while increasing the recycling rate in Queensland. The Product Responsibility Organisation (PRO) is the Scheme coordinator and is appointed under the WRR Act by the Minister. The role of the PRO is to administer the Scheme.

On 20 February 2025, the Minister for the Environment and Tourism and Minister for Science and Innovation referred the Scheme to the Health, Environment and Innovation Parliamentary Committee (the Committee) to review the Scheme's operation (the Inquiry). This was the first comprehensive review of the Scheme since its establishment.

On 16 October 2025, the Committee tabled its report *Improving Queensland's Container Refund Scheme, Report No. 14* (the Report). The Committee made 21 recommendations which included improving the governance, transparency and accountability of the Scheme.

The Inquiry found a number of concerning aspects of the Scheme, including amongst other things:

- weaknesses in the governance and oversight of the Scheme;
- issues with the composition of the Scheme coordinator's board;
- concerns with the governance practices of the Scheme coordinator and its relationship with container refund point operators;
- surpluses held by the Scheme coordinator, which are used to offset costs for the beverage industry, rather than be reinvested to improve the Scheme or provide benefits to environmental or charitable programs;
- lack of accountability and transparency around the Scheme coordinator; and
- absence of a safe, transparent complaints process.

The Queensland Government's final response to the Report identifies that it would make legislative amendments to address the recommendations and improve governance and oversight of the Scheme to increase its efficiency and effectiveness and ensure public confidence. The Bill gives effect to the Queensland Government's response.

Achievement of policy objectives

The Bill achieves its objectives by making amendments to the WRR Act to strengthen governance and oversight of the Scheme, including:

- enhancing oversight mechanisms for the Scheme, similar to that of statutory authorities and government-owned corporations;
- establishing a performance management framework for the PRO;
- enabling a Ministerial statement of expectations to be issued to the PRO in relation to the performance of their functions;
- requiring an annual audit of the Board by an independent auditor;
- enabling the Minister to require an audit of the PRO;
- establishing a fixed term for appointment of the PRO and renewal framework;
- requiring that all director appointments to the Board be approved by the Minister;
- changing the composition of the Board, including ensuring there is expertise in waste and recycling, local government, community and social enterprise capability;
- requiring that the majority of directors of the Board be independent of the beverage industry;
- establishing fixed term appointments for directors of the Board and regular renewal;
- enabling the appointment of a special manager for the Scheme;
- expanding the functions of the PRO to include supporting environmental or community programmes as well as the development of infrastructure required to recycle or transport waste in Queensland;
- requiring the PRO to have regard to the economic viability of proposed refund points, their impact on the network and the proximity to existing refund points;
- enabling cost recovery of government costs related to the Scheme;
- adopting legislative safeguards to prevent unfair conduct by the PRO; and
- clarifying that the PRO is a unit of public administration for the purpose of the *Crime and Corruption Act 2001*.

The Bill also achieves its objectives to improve transparency and enhance the operation of the Scheme by making amendments to the WRR Act including:

- broadening existing strategic and operational plan requirements to provide the PRO must prepare and publish additional reports, plans and other information relating to the Scheme;
- requiring the development of a governance and investment plan which will include the investment and allocation of surplus and retained scheme funds;
- requiring the development of a network of container refund points plan that will detail the plan for expansion of the Scheme's network and ensure that the economic viability of the existing return points are considered;
- providing for Scheme pricing to take into account the impact on small beverage manufacturers and enabling an exemption for a certain number of containers produced to provide relief for small beverage manufacturers;
- allowing eligible container lids to be collected and recycled through the Scheme; and
- making minor changes to align with contemporary drafting practices.

Alternative ways of achieving policy objectives

The Scheme is established under the WRR Act. To strengthen and improve the Scheme and provide increased oversight and governance arrangements, legislative changes are necessary. Administrative changes alone are unable to achieve the policy objectives.

Undertaking legislative change also addresses the recommendations from the Committee's Report to make legislative amendments to improve the Scheme and gives effect to the Queensland Government's response to the Report.

Estimated cost for government implementation

There will be some financial costs to government to implement the enhanced oversight of the Scheme. In other State jurisdictions, government costs are met by the Scheme. The Bill enables cost recovery of government costs relating to the Scheme, however these are expected to be modest.

Consistency with fundamental legislative principles

The Bill has been drafted with regard to the fundamental legislative principles (FLPs) as defined in section 4 of the *Legislative Standards Act 1992*. The Bill is generally consistent with these provisions. Clauses of the Bill in which FLP issues arise or are perceived, together with the justification for any departure, are outlined below.

Legislation must have sufficient regard to rights and liberties of individuals – *Legislative Standards Act 1992*, s 4(2)(a)

Section 4(2)(a) of the *Legislative Standards Act 1992* provides that legislation should have sufficient regard to the rights and liberties of individuals. The Bill includes provisions relating to the rights and liberties of individuals, however these provisions are considered appropriate in the context of the Bill's objectives and do not unduly infringe those rights.

Board appointments and composition

The Bill amends the WRR Act in relation to approval and terms of appointment of directors of the Board, including the chairperson. Currently, the Minister approves the chairperson of the Board and the director representing the interests of the community. The appointment of the remaining directors of the Board do not currently require Ministerial approval. The Bill amends the approval requirements, providing that all directors of the Board must be approved by the Minister. The Bill also provides for the Minister to have the power to withdraw the approval of the appointment. The Bill broadens the composition of the Board to provide for expertise in waste and recycling, local government, community and social enterprise capability, alongside small and large beverage manufacturers. The Bill also requires that the majority of directors of the Board be independent of the beverage industry. As no term of appointment is currently provided for by the WRR Act, the Bill includes a fixed term of appointment for directors of the Board, including the chairperson. The term of appointment will be for up to three years with a maximum of 10 years in total. The ability for the Minister to approve and withdraw the approval of appointments, and a fixed term being established for appointments, align with similar approaches of other statutory boards.

Ensuring an equitable balance of representation on the Board, timeframes on appointments and an appropriate level of skills and experience is considered appropriate in providing improved governance, transparency and accountability of the Scheme and do not unduly infringe those rights. The amendments also support the recommendations made by the Committee to improve governance and oversight of the Scheme.

Power to appoint a special manager

Pursuant to section 4(2)(a) of the *Legislative Standards Act 1992*, legislation should have sufficient regard to the rights and liberties of individuals. Generally, legislation should not, without sufficient justification, unduly restrict ordinary activities. The Bill amends the WRR Act to enable the Minister to appoint a special manager for the PRO when there is a ground for taking action under the Act. If appointed, the special manager would have the function of monitoring the affairs of the PRO and any other function under their instrument of appointment. The special manager will have the power to do all things necessary to be done for the performance of their functions which may include, having access to the PRO's documents and records relating to the PRO's affairs and attending any meeting of the Board of the PRO.

The special manager may, by notice, require the PRO to take or refrain from taking an action. However, this is limited to situations where the special manager reasonably suspects there is or has been maladministration, believes the notice is in the best interests of the Scheme or believes the notice is necessary to ensure the PRO's compliance with the WRR Act. While the special manager's power is to benefit the PRO in undertaking its functions under the WRR Act, the power may be considered to intervene in a person's right to conduct business in a way considered appropriate by the PRO.

The power to appoint a special manager provides flexibility of oversight in circumstances where there is a ground to take action under the WRR and it would be desirable and in the interest of the Scheme to appoint a special manager to monitor the affairs of the PRO.

Legislation should be consistent with the principles of natural justice – *Legislative Standards Act 1992*, s4(2)(a) and 4(3)(b)

As above, section 4(2)(a) of the *Legislative Standards Act 1992* provides that legislation should have sufficient regard to the rights and liberties of individuals. Section 4(3)(b) of the *Legislative Standards Act 1992* provides that whether legislation has sufficient regard to the rights and liberties of individuals depends on whether it is consistent with the principles of natural justice.

Removal of requirement to issue an information notice for Ministerial decisions regarding the Scheme

Under the WRR Act, decisions of the Minister relating to the Scheme are subject to internal review by the chief executive of the department and external review by the Queensland Civil and Administrative Tribunal (QCAT). The decisions of the Minister include the appointment of the PRO, conditions of appointment, and suspension or cancellation of a PRO's appointment.

As the Minister makes these discretionary decisions in their own right, it is not considered necessary or appropriate that the decision be subject to internal review by the chief executive.

The Bill amends the WRR Act to remove the requirement for the Minister to issue an information notice, and therefore removes the ability for the decision to be subject to internal and external review processes under the WRR Act. Instead, the Bill provides for the Minister to issue a notice of the decision and procedural fairness will be afforded through the decision-making process. These decisions of the Minister will be subject to judicial review. The amendments in the Bill are considered consistent with the principles of natural justice.

Appointment of special manager

The Bill provides that in performing a function or exercising a power, the special manager is not required to consult with the PRO or any other person about how the function is to be performed or whether the power should be exercised. The special manager is not required to give the PRO an opportunity to be heard before performing a function or exercising a power. This is potentially inconsistent with the principles of natural justice on the basis that it excludes a right to be heard in relation to the exercise of the special manager's powers and functions.

The inconsistency with the principles of natural justice is considered justified on the basis that the appointment of the special manager is a measure taken when there is a ground for the Minister to take action under the WRR Act. The special manager's functions include monitoring the affairs of the PRO and to report to the Minister on the performance of the special manager's functions. Having no requirement to consult ensures the special manager can undertake their functions without delay.

Legislation should not adversely affect rights and liberties, or impose obligations, retrospectively – *Legislative Standards Act 1992*, s 4(2)(a) and 4(3)(g)

As above, section 4(2)(a) of the *Legislative Standards Act 1992* provides that legislation should have sufficient regard to the rights and liberties of individuals. Section 4(3)(g) of the *Legislative Standards Act 1992* provides that legislation should not adversely affect rights and liberties, or impose obligations, retrospectively. Legislation is considered retrospective if it imposes obligations, liabilities or consequences from a date prior to its enactment.

Continuation of existing PRO and directors of the Board

The Bill provides for transitional provisions to give effect to the continuation of the existing organisation appointed as the PRO and the directors of the Board for a specified period. The Bill also gives effect to the continued functions and obligations of the PRO, such as reporting obligations. These provisions will operate prospectively and do not impose obligations retrospectively.

Transitional regulation-making power

The Bill includes a transitional regulation-making power to manage any unforeseen issues that may arise during the transition to the new legislative framework. This power could allow a regulation to operate retrospectively, which engages the fundamental legislative principle that laws should not have retrospective effect.

To ensure the provision remains consistent with fundamental legislative principles, several constraints have been included to limit its operation. The power only allows retrospective operation from the date of commencement of the provision, and not before. In addition, any

transitional regulations must be expressly declared and limited in duration, providing a safeguard against unintended retrospective application. The provision is also subject to a two year sunset clause, ensuring the power is used only to address genuine transitional matters during the initial implementation period. While the inclusion of the transitional regulation-making power may engage section 4(3)(g) of the *Legislative Standards Act 1992*, it is considered justified given the complexity of the reforms and the need to ensure their smooth and effective implementation.

Legislation must have sufficient regard to the institution of Parliament – *Legislative Standards Act 1992*, s4(2)(b) and 4(4)(a)

Delegation of power to the Minister to extend a statutory timeframe

Section 4(2)(b) of the *Legislative Standards Act 1992* provides that legislation should have sufficient regard to the institution of Parliament. Section 4(4)(a) of the *Legislative Standards Act 1992* states that in assessing whether legislation has sufficient regard to the institution of Parliament this will depend on whether the Bill allows the delegation of legislative power only in appropriate cases and to appropriate persons.

To be appointed as the PRO, a company must be an eligible company as defined under the Act. A company is an eligible company if, among other things, its constitution and Board comply with provisions of the WRR Act. The WRR Act provides for requirements regarding the constitution, including that the company maintains a Board that is constituted by nine directors. There may be circumstances where a vacancy in the office of the director of the Board occurs. The Bill provides that where a vacancy in the office occurs, the PRO must make reasonable endeavours to fill the vacancy.

To enable the continued operation of the PRO to administer the Scheme, the Bill provides that if the office of a director of the Board becomes vacant, the office is taken to be filled for the purpose of meeting the requirements of the constitution for a period of six months from the vacancy. The Bill enables the Minister to extend the period for not more than a further six months where the Minister considers that there are exceptional circumstances.

Whilst the Bill allows the Minister to extend the period which the constitution requirements continue to be met during a period of vacancy, this will only be in exceptional circumstances. It is considered that the Minister is an appropriate person to hold this delegation of legislative power. Noting the provision will only operate in exceptional circumstances, this amendment is considered justified and to be delegated in appropriate cases and to an appropriate person.

Prescribing certain matters by regulation

Section 4(2)(b) of the *Legislative Standards Act 1992* provides that legislation should have sufficient regard to the institution of Parliament. Section 4(4)(b) of the *Legislative Standards Act 1992* provides that in assessing whether legislation has sufficient regard to the institution of Parliament this will depend on whether the Bill sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly.

The Bill will enable matters to be prescribed by regulation. This includes the details to be provided by the PRO in reports and plans, the information to be published on the PRO's website, the outcomes to be achieved by the PRO in administering the Scheme, the limits on

amounts paid by small beverage manufacturers under container recovery agreements and the treatment of transferring assets and liabilities to another relevant entity where the PRO is replaced. Prescribing these matters by regulation is considered appropriate as it allows the Scheme to be responsive to contemporary issues and ensures the arrangements continue to be effective without requiring amendment to the Act. As regulations must be tabled in Parliament and are subject to disallowance, sufficient regard is had to the institution of Parliament while ensuring the prescription of matters relating to the Scheme is appropriate and remains responsive.

Transitional regulation-making power

The Bill provides a transitional regulation-making power to allow delegated legislation to fill any implementation gaps and to facilitate the operation of the Act following commencement. This provision has been included to cover any risk of something unforeseen happening prior to commencement. This could be perceived as bypassing full parliamentary scrutiny for amendments that should be legislated, particularly where such regulations could alter rights or obligations. However, this approach is justified given the complexity of the Bill and the fact that safeguards are included to ensure sufficient regard is had to the institution of Parliament.

The use of this power to make regulatory amendments will remain subject to parliamentary oversight and will be subject to disallowance. Additionally, the section is narrowly scoped, applying only to matters necessary to facilitate the transition, and is time bound, expiring two years after commencement. The use of this power will be transparent, requiring regulations to be expressly declared as transitional. This ensures that Parliament retains the ability to oversee and, if necessary, disallow any transitional regulations, thereby maintaining appropriate regard for the institution of Parliament.

Consultation

During the Inquiry, the Committee received a substantial body of evidence and consulted with industry, business and community groups. The Report was informed by 119 written submissions accepted by the Committee, a public briefing, two public hearings, 12 private hearings with stakeholders and a substantial volume of documentation from the PRO and the Department of the Environment, Tourism, Science and Innovation (DETSI).

Targeted consultation has been undertaken on the key proposed legislative amendments contained in the Bill to ensure they can be practically implemented. Consultation has occurred with Container Exchange Limited (COEX) (including the Board representatives of their members, Coca Cola Europacific Partners and Lion), the Local Government Association of Queensland (LGAQ), the Waste and Recycling Industry of Queensland (WRIQ), the Waste Management and Resource Recovery Association Australia (WMRR) and the Australian Beverages Council (AUSBEV).

Feedback on the targeted consultation package was generally positive, although stakeholders did express varying views including about the merits of different regulatory and organisational structures for the PRO.

Stakeholders also expressed views about the importance of recognising that the Scheme was originally designed as an extended producer responsibility scheme and that the Board

composition and oversight mechanisms should reflect that intention, while also being cognisant of the duties owed by the directors of the PRO under the *Corporations Act 2001* (Cth).

Stakeholder feedback highlighted the importance of translating the enhanced protections, governance, and oversight contained within the Bill into tangible outcomes on the ground that deliver on the intent of the Committee's recommendations. The intended implementation of the new regulatory framework is discussed further in the notes on provisions.

Noting the significant consultation process already undertaken by the Inquiry to inform the Report and its recommendations, further public consultation has not occurred on the proposed legislative changes.

All amendments have undergone regulatory impact analysis in accordance with *The Queensland Government Better Regulation Policy*.

Consistency with legislation of other jurisdictions

The amendments in the Bill regarding prohibiting unfair conduct by the PRO and requiring the PRO to consider the economic viability of existing return points, including when making decisions about the expansion of the Scheme, align with existing legislative provisions that operate in Western Australia.

The amendments in the Bill which allow eligible container lids to be collected and recycled through the Scheme align with existing legislative provisions that operate in Victoria.

The other amendments being made in the Bill are specific to the State of Queensland and are not uniform with or complementary to legislation of the Commonwealth or another state.

Notes on provisions

Clause 1 Short title

This clause states that the short title is the *Waste Reduction and Recycling (Strengthening the Container Refund Scheme) Amendment Act 2026*.

Clause 2 Commencement

This clause states that this Act commences on a day to be fixed by proclamation.

Clause 3 Act amended

This clause states that this Act amends the *Waste Reduction and Recycling Act 2011*.

Clause 4 Amendment of s 99I (How objects are to be achieved)

This clause replaces a reference to the ‘cost of administering’ the Scheme in section 99I(c)(i) with ‘other costs of’ the Scheme in relation to the contributions made by beverage manufacturers. This clarifies that the contributions relate to all costs of the Scheme, not just its administration.

Clause 5 Omission of s 99J (Functions of Product Responsibility Organisation)

This clause omits section 99J regarding the functions of the PRO. The functions are moved to chapter 4, part 5, which relates to the PRO.

Clause 6 Amendment of s 99M (Meaning of *container*)

This clause amends section 99M to allow eligible container lids to be collected and recycled through the Scheme. The clause inserts a new subsection to clarify that a container is a container for the purposes of the definition in this section whether or not it includes any closure, lid or cap that may be attached.

Clause 7 Amendment of s 99Q (Container recovery agreement)

This clause amends section 99Q to clarify that the contribution of costs in a container recovery agreement includes the costs of the Scheme, including those matters mentioned in the existing section regarding the refund amount to be paid and the costs of administration of the Scheme.

Clause 8 Amendment of s 99R (Limits on amounts paid by small beverage manufacturers under container recovery agreements)

This clause amends section 99R regarding the limits on amounts payable by small beverage manufacturers under container recovery agreements provided for under a regulation.

The clause inserts a new subsection to provide that the regulation may prescribe an amount or a method of calculating a maximum amount which a small beverage manufacturer must pay. The intent is to provide a head of power for the regulation to enable a measure of financial relief to be provided for small beverage manufacturers.

Clause 9 Amendment of s 99ZH (Operator of material recovery facility may claim recovery amounts)

This clause amends section 99ZH(2) to replace ‘required by’ with ‘required under’ and amends section 99ZH(5) to replace ‘time required by’ with ‘period required under’, to make minor drafting amendments.

Clause 10 Insertion of new ss 99ZZA and 99ZZB

This clause inserts new sections 99ZZA and 99ZZB.

99ZZA Costs incurred by department for scheme

This new section provides for the recovery of costs that the department incurs or is reasonably expected to incur for the Scheme. The section enables the chief executive to ask the PRO to pay an amount for the costs or expected costs of the Scheme. If requested by the chief executive, the PRO must pay the chief executive. The amount payable may be recovered as a debt payable by the PRO to the chief executive.

99ZZB Duty of confidentiality

This new section provides for the duty of confidentiality regarding the disclosure and use of information. The provision applies to a person mentioned in the section who in their capacity in relation to the Scheme, has acquired or has access to personal information about another person. The section prohibits the disclosure of the information to anyone else, or the use of the information, other than where permitted under the section. A maximum penalty of 100 penalty units applies.

The section defines ‘personal information’ to mean the definition in section 12 of the *Information Privacy Act 2009*. The section also defines ‘information’ to include a document.

Clause 11 Replacement of ch 4, pt 5 (Product Responsibility Organisation)

This clause replaces chapter 4, part 5 regarding the Product Responsibility Organisation (PRO).

Insertion of new Part 5 – Product Responsibility Organisation

Division 1 Preliminary

102AA Main purpose

This new section provides for the main purpose of this part, being the appointment of an eligible company to administer the Scheme and the good governance of the Scheme.

102AB Definitions for part

This new section provides for the definitions for this part. The section defines ‘applicant’, ‘board’, ‘corporate document’, ‘criminal history’, ‘eligible company’, ‘eligible individual’, ‘independent auditor’ and ‘member’.

102AC References to functions of Organisation

This new section clarifies that a reference in this part to the functions of the PRO, other than a reference to a specific function, is a reference to the functions of the PRO under this Act or another Act.

Division 2 Ministerial appointment

This division provides for the process for the Minister to appoint an eligible company as the PRO.

102AD Minister may appoint eligible company

This new section provides that the Minister may appoint an eligible company as the PRO to administer the Scheme. This section replaces section 102A of the pre-amended Act.

102AE What is an *eligible company*

This new section details the requirements to be an eligible company. The section provides that a company is an ‘eligible company’ if the company is registered under the *Corporations Act 2001* (Cth), is carried on other than for the profit or gain of its members, and has a constitution and Board of directors that comply with and are not contrary to the provisions of the Act mentioned in the section. This section replaces section 102B(1) of the pre-amended Act.

102AF Requirements for constitution

This new section details the requirements for the constitution of the company appointed as the PRO. This section is redrafted from section 102B(1)(c) of the pre-amended Act to be consistent with current drafting practices and extends the requirements for the constitution.

The section provides that the constitution must be consistent with this Act, and that if it is inconsistent, the provision of the Act prevails to the extent of the inconsistency. This change is intended to strengthen the governance of the PRO and reflects that the PRO is administering a scheme established by legislation and that its constitution should not be used to derogate from the functions established for the PRO by the empowering legislation.

102AG Composition of board

This new section provides for the composition of the Board of a company appointed as the PRO. The provision replaces section 102B(2) of the pre-amended Act.

The section requires that the Board must be composed of nine directors. The nine directors must include at least five directors who are independent of the beverage industry, at least one director who is an executive officer, employee or business associate of a large beverage

manufacturer, and at least one director who is an executive officer, employee or business associate of a small beverage manufacturer, or an association that represents small beverage manufacturers.

The section requires that each director must be approved by the Minister. The section also provides that the chairperson must be approved by the Minister and be independent of the beverage industry.

The section requires that in relation to directors who are independent of the beverage industry, the Minister must be satisfied that the directors collectively have expertise in waste and recycling, local government, and community and social enterprise, represent the interests of the community, and have legal or financial qualifications and experience.

The section provides that if the members of a company appointed as the PRO include large beverage manufacturers, no more than two directors of the Board may be nominated by, or required to be appointed by, the members who are large beverage manufacturers.

The section includes definitions of ‘independent of the beverage industry’, ‘large beverage manufacturer’ and ‘small beverage manufacturer’ for the purpose of the section.

The intention of the section is to provide for equitable representation on the Board and to ensure directors have appropriate skills and experience to enable the effective operation of the Board.

102AH Term of appointment as director

This new section provides for the appointment term of a director of the Board. The effect of this provision is that a person appointed as a director holds office for the term stated in their appointment, which cannot be more than three years. A person may be reappointed for a further term if the members of the PRO consider that the person’s performance as a director has been to the highest standard and the person is likely to continue to contribute at a high standard to the PRO’s performance. The section provides that a person cannot be a director of the Board for more than 10 years in total.

The intent of this provision is to provide for regular renewal and refreshment of the Board to ensure its effective operation.

102AI Minister may withdraw approval of directors

This new section provides that the Minister may withdraw the Minister’s approval of a director’s appointment by notice given to the PRO. This withdrawal may be undertaken at any time and for any reason, or none. The intent of this provision is to provide a similar approach to the power established by the *Acts Interpretation Act 1954* which provides that a power to appoint a person to an office includes the power to remove a person appointed to the office at any time.

102AJ Vacancy in office of director

This new section provides for circumstances where the office of a director of the Board becomes vacant. The office becomes vacant if the director completes a term of office and is not reappointed, stops being an eligible individual, resigns from office, or is removed from office.

The section provides that if the office of a director becomes vacant, all reasonable endeavours must be made to ensure the office is filled within six months after the office becomes vacant.

To ensure continuity of the Board's operations, if there is a vacancy the office is taken to be filled for the purpose of the constitution requiring the Board to have nine directors, for a period of six months. The six months starts on the day the office becomes vacant. The Minister may extend this period for up to a further six months if the Minister considers there are exceptional circumstances.

The intent of the provision is to give the PRO a period of time in which to exercise all reasonable endeavours to fill a vacant office of a director. This will enable the Board and the PRO to continue to exercise its functions over this period, even though a vacancy may exist.

Division 3 Functions and powers

102AK Functions generally

This new section provides that the main function of the PRO is to administer the Scheme and ensure the good governance of the Scheme.

The section is redrafted from section 99J of the pre-amended Act and provides for additional functions of the PRO. The new functions include entering into scheme agreements, supporting the development of infrastructure required to transport and recycle waste and other material in Queensland, and supporting environmental and community programs that are related to the Scheme, its intent and its functions.

The section provides that to remove any doubt, it is declared that the PRO may enter into scheme agreements that continue in effect after the end of the PRO's term of appointment.

102AL Function relating to network of container refund points

This new section relates to the function of the PRO to establish and maintain a network of container refund points. The effect of this section is that the PRO must use all reasonable endeavours to establish and maintain a network of container refund points that enables all communities in Queensland to access a place to return empty containers for the refund amount payment.

The section also provides that when establishing and maintaining the network, the PRO must consider the economic viability of the operators of existing container refund points. The section is intended to operate as a safeguard that requires the PRO to actively consider the impact on the viability of existing refund points when it makes decisions about the network, including decisions about where and to whom new refund points are contracted.

102AM Function relating to non-compliant manufacturers

This new section relates to the function of the PRO to identify manufacturers who may not be compliant with section 99P of the Act. The effect of this provision is that if the PRO becomes aware that a beverage manufacturer is non-compliant, the PRO may take reasonable steps to determine compliance. If after taking reasonable steps, the PRO reasonably suspects that the beverage manufacturer is not compliant, the PRO must give the chief executive notice of the suspicion as well as the evidence and other material on which the suspicion is based.

The intent of this provision is to clarify the function of the PRO as an information gatherer and mandatory reporter of information to support the government in pursuing non-compliance with the Scheme.

102AN Powers

This new section provides that the PRO has the power to do all things necessary and convenient to be done for the performance of the PRO's functions. This section replaces section 102C of the pre-amended Act.

102AO Application of other Acts

This new section provides that the PRO is a unit of public administration under the *Crime and Corruption Act 2001*, to the extent the PRO is performing a function of the PRO.

102AP Effect of obligations

This new section provides that a failure to comply with a provision in this part that imposes an obligation on the PRO is an offence only to the extent the provision expressly provides. The section notes that failure to comply with a provision may be a ground for taking action against the PRO.

Division 4 Appointment process

This new division provides for the appointment process of the PRO.

Subdivision 1 Application

This new subdivision provides for the application process to be appointed as the PRO.

102AQ Minister may invite application

This new section provides that the Minister may invite an eligible company to apply for appointment as the PRO. The invitation may state the outcomes required to be met in relation to the functions of the PRO, the administration of the Scheme in a way that provides opportunities for social enterprise, innovation and the development of technology, and other requirements for the application. This section replaces section 102D of the pre-amended Act.

Although the section refers to an eligible company, the operation of the *Acts Interpretation Act 1954* provides that the invitation may be to multiple eligible companies.

102AR Application

This new section provides that after receiving the invitation, the eligible company may apply for appointment as the PRO. This section replaces section 102E of the pre-amended Act.

102AS Requirements for application

This new section provides for the requirements for an application for appointment as the PRO. Consistent with other application procedures of this type, this section requires the invited applicant to submit certain details required to assess their application. This includes the requirements identified as part of the invitation process, as well as other materials evidencing their eligibility and suitability to perform the functions of the PRO. This section replaces section 102F of the pre-amended Act.

102AT Referral of application to chief executive

This new section provides that after receiving the application for appointment as the PRO, the Minister must refer the application to the chief executive for assessment. This section replaces section 102G of the pre-amended Act.

102AU Withdrawing or amending application

This new section provides that at any time, an applicant may withdraw the application or amend the application with the agreement of the Minister. This section replaces section 102H of the pre-amended Act.

Subdivision 2 Assessment by chief executive

This new subdivision provides the requirements for the chief executive to assess an application for appointment of the PRO.

102AV Assessing application

This new section provides that the chief executive must assess whether the applicant is suitable for appointment as the PRO and must give the Minister a report about the applicant's suitability. This section replaces section 102I of the pre-amended Act.

102AW Particular matters for assessing application

This new section provides for the matters the chief executive must consider in assessing whether the applicant is suitable for appointment as the PRO. The section replaces section 102J of the pre-amended Act. The section expands on the particular matters that the chief executive must consider to also include any other matter the chief executive considers appropriate in assessing the suitability of the applicant.

The reference in the pre-amended Act to the requirement that the chief executive must investigate when considering the application has been removed as this step is implied when undertaking consideration of the application. Minor amendments have also been made to the new section to reflect contemporary drafting practices.

102AX Chief executive may require further information or documents

This new section provides that the chief executive may, by notice, require the applicant to give the chief executive further information or documents reasonably required to assess the application. This notice must state a reasonable period of at least 10 business days within which the applicant must comply with the requirement. The section also provides that if the applicant does not comply, the chief executive may assess the application without the further information or document. This section replaces existing section 102K of the pre-amended Act.

Subdivision 3 Decision by Minister

This new subdivision provides for the process regarding the Minister's decision in relation to the appointment of a PRO.

102AY Deciding application

The new section provides that the Minister must decide to appoint, or refuse to appoint, the applicant as the PRO, but can only do so if the Minister first receives a report from the chief executive about an applicant's suitability for appointment as the PRO.

The Minister may decide to appoint the applicant as the PRO only if the Minister is satisfied that the applicant's proposed plans about the prescribed matters are acceptable and the applicant is suitable for appointment as the PRO. In making a decision, the Minister may have regard to the chief executive's consideration of the matters prescribed. This section replaces section 102L of the pre-amended Act.

102AZ Conditions

This new section provides that the appointment of the PRO may be subject to the conditions the Minister considers appropriate. This section replaces section 102L(1)(b)(i) of the pre-amended Act.

102BA Term of appointment

This new section provides that the appointment of the PRO is for the term stated in the appointment, being not more than seven years.

The introduction of a fixed term of appointment was a recommendation of the Committee and is intended to avoid a perceived sense of incumbency of the PRO. Providing for a term of appointment also aligns with approaches for other statutory appointments under legislation.

102BB Notice of decision

This new section provides that the Minister must give the applicant notice of the decision regarding the application for appointment as the PRO.

The section also provides that if the Minister decides to appoint the applicant as the PRO, the appointment takes effect when the applicant is given the notice or on a later day that is stated in the notice.

This section replaces sections 102M and 102N of the pre-amended Act. In particular, the section removes the requirement for the Minister to give the applicant an information notice where the Minister decides to refuse the application. Rather, the section requires a notice of the decision to be provided. Removing the requirement to issue an information notice removes the avenue of internal review and external review of the decision under the chapter 9 of the Act. The intention of this section is to make the decision only subject to judicial review.

Division 5 Amendment of appointment

This new division provides for the amendment of a PRO's appointment.

102BC Amendment on application

This new section provides for the requirements of an application to amend the appointment of the PRO. The section replaces sections 102P, 102Q, 102R and 102S of the pre-amended Act.

The section provides that the PRO may apply to the Minister for an amendment of their appointment and the application must be made in the approved form.

The section provides that the application must be referred to the chief executive for assessment and the chief executive must give the Minister a report about whether the amendment is appropriate. The chief executive may require further information or documents to assess the application.

The section requires that after receiving the chief executive's report, the Minister must decide the application by amending the appointment in the way applied for, amending the appointment in another way with the applicant's written agreement, or refusing to amend the appointment. An amendment may impose, vary, or remove a condition of the appointment.

102BD Amendment by Minister

This new section provides that the Minister may decide to amend the appointment of the PRO at any time, on the Minister's own initiative. This amendment may impose a condition on, or vary or remove a condition of, the PRO's appointment. This section replaces sections 102U and 102ZD of the pre-amended Act.

102BE Notice of decision

This new section provides that the Minister must give the PRO notice of a decision regarding the application for an amendment of the appointment. The section also provides for when the decisions regarding the amendment take effect.

This section replaces sections 102S and 102T of the pre-amended Act. In particular, the section removes the requirement for the Minister to give the applicant an information notice where the Minister decides to refuse the amendment application. Rather, the section requires a notice of the decision to be provided. Removing the requirement to issue an information notice removes the avenue of internal review and external review of the decision under the chapter 9 of the Act. The intention of this section is to make the decision only subject to judicial review.

Division 6 Renewal of appointment

This new division provides for the renewal of the PRO's appointment. This supports the provisions in the Bill which introduce a term of appointment for the PRO.

102BF Application for renewal

This new section provides that an eligible company appointed as the PRO may apply to the Minister for renewal of the appointment. The section requires the application to be made in an approved form and provides the timeframes for making the application.

Similar to an application to be appointed as the PRO, the section requires the Minister to refer the application to the chief executive for assessment. The chief executive must assess whether the renewal is appropriate and give the Minister a report about whether the renewal is appropriate. In assessing the application, the chief executive must have regard to the application and any other matter the chief executive considers is appropriate. The chief executive may require further information or documents to assess the application for renewal.

102BG Deciding application

This new section provides that the Minister must decide to renew, or refuse to renew, the PRO's appointment after receiving the chief executive's report. The Minister may decide to renew the appointment only if the Minister is satisfied that the company remains suitable for appointment as the PRO. In deciding if the company continues to be suitable, the Minister may have regard to the chief executive's report about whether the renewal is appropriate.

This section also provides that the renewal of the appointment may be subject to the conditions the Minister considers appropriate. The term of the renewed appointment cannot be for more than seven years.

If the Minister has not made a decision on whether or not to renew the appointment before the eligible company's appointment as the PRO is due to expire, the eligible company's appointment continues until the Minister's decision takes effect.

102BH Notice of decision

This new section provides that the Minister must give the eligible company notice of the decision regarding the renewal application. The section also provides for when the decision takes effect.

Division 7 Operations of Organisation

This new division provides for the operations of the PRO.

Subdivision 1 General obligations

This new subdivision provides for the general obligations of the PRO.

102BI Organisation must not act unfairly

This new section provides that the PRO must not act unfairly, or unreasonably discriminate, against or in favour of any person when negotiating, entering into, performing obligations under or enforcing a scheme agreement, or when performing another function, or exercising a power of, the PRO.

The intent of the section is to clearly establish an obligation on the PRO to act fairly in its dealings with scheme participants to mitigate the significant negotiating power held by the PRO.

102BJ Organisation must comply with plans proposed in application

This new section requires the PRO to implement its plans for certain matters provided during the application process. This is a condition of the PRO's appointment.

The intent is to ensure that the Scheme receives the benefits that are to arise from the PRO's application as provided for during the appointment process.

102BK Organisation must establish container refund points in particular circumstances

This new section provides that the PRO must establish and operate a container refund point in a community if the community does not have reasonable access to one and the PRO has not identified another entity with which to enter into a container collection agreement to operate a container refund point in the community. The section replaces section 102ZM(2) of the pre-amended Act.

The section is a continuation of the pre-amended Act and has been retained to provide an obligation on the PRO to directly establish and operate container refund points in communities that have no reasonable access to the Scheme if no other entity can be found to operate a container refund point in the community.

The obligation to provide the services of the Scheme to Queensland communities will be implemented through the network of container refund points plan.

102BL Organisation must use best endeavours to meet outcomes prescribed by regulation

This new section provides that a regulation may prescribe certain outcomes to be achieved by the PRO and that the PRO must use its best endeavours to achieve an outcome prescribed. This section replaces section 102ZF from the pre-amendment Act and continues the intention of that section.

Subdivision 2 Ministerial oversight

This new subdivision provides for ministerial oversight of the Scheme.

102BM Ministerial statement of expectations

This new section provides that the Minister may give the PRO a written statement about the Minister's expectations for the performance of the PRO's functions.

The statement of expectations may state a particular period for which it applies and may provide for the nature and scope of the PRO's activities for a particular period. The PRO must have regard to the statement of expectations in performing its functions.

102BN Ministerial direction

This new section provides that the Minister may give the PRO a written direction about a matter relevant to the performance of a function, or the exercise of a power, of the PRO. The PRO must comply with the direction. The section also requires the PRO to include details in its annual report of any direction given by the Minister during a financial year and the actions taken by the PRO as a result of the direction. This section replaces sections 102ZE and 102ZL from the pre-amendment Act.

Subdivision 3 Corporate documents

This new subdivision provides for the requirements regarding corporate documents.

102BO Organisation must have particular documents

This new section provides a list of the corporate documents the PRO must have each financial year. The section also provides that the corporate documents must include matters prescribed by regulation. Of these documents, the strategic plan, operational plan, and budget are consistent with the pre-amendment Act. The remaining corporate documents either relate to the Committee's recommendations, or are necessary documents to support the implementation of the recommendations.

102BP Preparation and submission of drafts of corporate documents

This new section provides that the PRO must prepare and submit to the Minister before 31 March each year, a draft of each corporate document required for the next financial year.

102BQ Particular corporate documents require Minister's agreement

This new section provides that the PRO and the Minister must endeavour to reach agreement on all corporate documents, other than an excluded document under the section, before the start of a financial year. A corporate document, other than an excluded document, has no effect until it is agreed to by the Minister.

The Minister may ask the PRO to consider a matter and revise the draft of the corporate document and give the revised draft to the Minister. The PRO must immediately comply with the request.

An 'excluded document' is defined for the purpose of the section to mean a budget, an operational plan, an employment and industrial relations plan or a document setting out a complaints management framework. Whilst excluded documents are required to be submitted to the Minister and published on the PRO website, these documents do not require agreement from the Minister.

If the Minister has not agreed to a corporate document before the financial year starts, the corporate document for the preceding financial year applies, with all necessary modifications, until the Minister agrees to the corporate documents for the financial year.

102BR Procedure if particular corporate documents not agreed to before financial year starts

This new section applies if the Minister has not agreed to a corporate document, other than an excluded document, before the start of the financial year. The section provides that the Minister may, by notice, direct the PRO to revise the draft of the corporate document by making stated modifications or doing any other stated thing, and direct the PRO to give the revised draft of the corporate document to the Minister. The PRO must immediately comply with the direction.

The section provides that the PRO must include in its annual report, details of any direction given by the Minister under the section during the financial year and the actions taken by the PRO as a result of the direction.

102BS Modifications of corporate documents

This new section provides for the modification of a corporate document. The section enables the PRO to modify a corporate document for a financial year. If the document is a corporate document which is not an excluded document (e.g. it is required to be agreed to by the Minister), the document can only be modified with agreement by the Minister.

The section also provides that the Minister may, by notice, direct the PRO to modify a corporate document which is not an excluded document. Before giving the direction, the Minister must consult with the PRO and take the PRO's views into account. The PRO must include in its

annual report, details of any direction given by the Minister under the section during the financial year and the actions taken by the PRO as a result of the direction.

If the PRO modifies a corporate document, the PRO must give the modified corporate document to the Minister within 10 business days after making the modification.

Subdivision 4 Meetings

This new subdivision provides details regarding meetings of the PRO.

102BT Annual general meeting

This new section requires the PRO to convene an annual general meeting each year on or after the anniversary of its first annual general meeting, but not later than five months after the end of each financial year.

Subdivision 5 Reporting obligations

This new subdivision provides for the reporting obligations of the PRO.

102BU Quarterly reports

This new section provides for the requirements regarding the quarterly reports of the PRO. The section requires the PRO to give the Minister a quarterly report about its operations for each quarter of a financial year. The section provides when the quarterly report must be provided to the Minister as well as what it must include. The section replaces section 102ZI of the pre-amended Act. The section includes minor drafting changes to reflect contemporary drafting practices, however, the requirements of the section remain largely unchanged.

102BV Annual report

This new section provides for the requirements regarding the annual report of the PRO. The section requires the PRO to give the Minister an annual report about the PRO's operations each financial year. The section provides when the annual report must be provided to the Minister and what information must be included in the report. The section replaces section 102ZJ of the pre-amended Act. The section expands on the matters to be included in the annual report to include certain new corporate documents and makes drafting changes to reflect contemporary drafting practices.

102BW Annual notification of status as eligible company

This new section provides for the annual notification to the chief executive of the PRO's status as an eligible company. The section requires the PRO to give the chief executive a document regarding whether the PRO is an eligible company and whether the PRO was not an eligible company at any time during the previous year. The section also requires the PRO to give the chief executive a copy of the PRO's current constitution. The annual notification is required within 10 business days after each anniversary of the PRO's appointment. The section replaces section 102ZN of the pre-amended Act.

102BX Annual notification of template terms of scheme agreements

This new section provides that the PRO must, before 31 March each year, give the Minister a draft of the template terms that the PRO intends to include in each type of scheme agreement entered in the next financial year. The template terms do not include the standard terms of a scheme agreement prescribed by regulation under sections 99Q(5), 99ZA(2) or 99ZF(3) of the Act.

102BY Continuous obligation to notify chief executive of particular events

This new section requires the PRO to notify the chief executive about specified events. The section replaces section 102ZO of the pre-amended Act. The section has been drafted to reflect contemporary drafting practices and includes an additional notifiable event, being a change in the template terms that the PRO intends to include in a scheme agreement entered during a financial year.

The section also includes a requirement for the PRO to provide notice about the appointment or employment of an executive officer of the PRO, or a person becoming a member of the PRO. Where the person the subject of the notice is a corporation, the notice must be accompanied by the signed consent of each person who is an executive officer or business associate of the corporation to the matters.

102BZ Continuous obligation to notify Minister of risks to scheme

This new section provides for the immediate notification by the PRO to the Minister of risks to the Scheme. The section replaces section 102ZK and reflects contemporary drafting practices with the intention of the provision remaining unchanged.

102CA Reporting to chief executive

This new section provides that the Minister may require the PRO to report to the chief executive about a matter relevant to the performance of the PRO's functions. An example of this is the PRO giving information to the chief executive. The section also provides that the PRO must comply with the requirement. This section replaces section 102ZL from the pre-amended Act and reflects contemporary drafting practices.

Subdivision 6 External oversight

This new subdivision provides for external oversight of the Board and the PRO.

102CB Annual audit of board

This new section provides that the PRO must appoint an independent auditor to carry out an audit of the Board's compliance with the Act and the suitability of each director of the Board to continue as director.

The section requires that the audit must occur at least once each financial year and with the approval of the Minister. The Minister may by notice, extend the period in which an audit is

required to longer than a financial year, and state the terms of reference for carrying out an audit. The section also requires that the person appointed as the independent auditor must prepare a report of the audit and give a copy of the report to the PRO and Minister within 10 business days after completing the audit report.

The intent of this provision is to ensure that the Board of the PRO is subject to regular, independent oversight of its performance, and that the outcomes of that oversight are provided in a timely manner to inform the Minister's consideration of whether it is necessary for the Minister to exercise their powers under the Act.

102CC Minister may require audit of Organisation

This new section enables the Minister to require an audit of the PRO. The requirement is to be made by notice. The notice may require the PRO to carry out an internal audit of either or both matters in relation to the PRO's compliance with the Act or the reliability and quality of the information given by the PRO to the Minister or chief executive under the Act. Alternatively, the notice may require the PRO to appoint a person as an independent auditor to carry out an audit of either or both of these matters.

The section provides that the notice to the PRO may state the terms of reference for carrying out the audit. If the PRO fails to comply with the notice, or the Minister considers that the person appointed by the PRO to carry out the audit is not appropriately qualified to carry out the audit, the Minister may appoint a person as an independent auditor to carry out the audit. The section requires that the person carrying out the audit must prepare a report for the audit and give a copy of the report to the PRO and the Minister within 10 business days after completing the audit.

The section also provides that the PRO must pay the costs where an independent auditor is appointed by the Minister.

Similar to the provisions relating to the annual audit of the Board, this provision is intended to ensure that the PRO is subject to regular, independent oversight of its performance, and that the outcomes of that oversight are provided in a timely manner to inform the Minister's consideration of whether it is necessary for the Minister to exercise their powers under the Act.

Subdivision 7 Information

This new subdivision provides for requirements regarding record keeping and the publication of information in relation to the PRO.

102CD Keeping of records

This new section provides for the record keeping requirements of the PRO. The section requires that the PRO must keep a document created or received by the PRO whilst performing its functions for seven years after the document was created or received. If the Minister requests such a document, the PRO must give the document to the Minister within 20 business days after the Minister makes the request, or within a longer period that is approved by the Minister.

The intent of this provision is to provide standards for the keeping of documents which are created or received by the PRO. The requirement to keep documents for seven years reflects statutory provisions regarding the keeping of records in other legislation.

102CE Publication of information on Organisation's website

This new section provides for the requirement that the PRO publish certain information on the PRO's website. The information must be published within the period prescribed by regulation. The section also provides that the information must be accessible on the PRO's website for two years, unless the information is the annual report, which must remain accessible for seven years. The section also includes definitions for 'annual report', 'information' and 'quarterly report' for the purpose of the section.

The intention of this provision is to improve the transparency of the operation of the PRO in administering the Scheme and provide an opportunity for public scrutiny regarding the performance in delivering the Scheme.

Subdivision 8 Miscellaneous

This new subdivision provides for miscellaneous provisions.

102CF Delegation

This new section provides for the delegation of a function or power of the PRO. The section replaces section 102ZP of the pre-amended Act and has been drafted to reflect contemporary drafting practices, with the intention of the provision remaining unchanged.

Division 8 Sanctions for non-compliance

This new division provides for sanctions for non-compliance.

Subdivision 1 Conditions, suspension and cancellation

This new subdivision provides for the conditions, suspension and cancellation of the appointment of the PRO.

102CG Grounds for taking action

This new section provides for the grounds under which the Minister may take action, and the possible actions that may be taken.

The section details the grounds for which action may be taken, which includes that the Minister believes another circumstance indicates that the PRO may not be suitable to hold the appointment. For example, this may be in relation to the outcomes of an audit of the PRO or an annual audit of the Board.

The section provides for a number of remedies available to the Minister. The actions the Minister may take are to impose a condition on, or vary or remove a condition of, the

appointment; to appoint a special manager for the PRO; to appoint an administrator for the PRO; to suspend the appointment for a stated period of not more than six months; or to cancel the appointment.

102CH Show cause notice before taking action

This new section requires the Minister to give the PRO a show cause notice if the Minister is considering whether to take action against the PRO. The section details the information that must be included in the notice. The notice must provide that the PRO may give the Minister a written response to the proposed action within 20 business days after the notice is given. This section replaces section 102X of the pre-amended Act.

102CI Decision in relation to taking action after show cause process

This new section provides that after considering the written response of the PRO to the show cause notice, the Minister may decide to take or not take the action. The section also provides that if the Minister decides to not take the action, the Minister must give the PRO notice of the decision. This section replaces section 102Y of the pre-amended Act.

102CJ Immediate suspension without show cause notice

This new section provides that the Minister may suspend the appointment of the PRO without a show cause notice if the Minister is satisfied the circumstances warrant the immediate suspension of the appointment to protect the safety, health or wellbeing of persons, or the integrity of the Scheme. The suspension may not be for a period of more than 20 business days. However, the Minister may extend the suspension for not more than three months if the Minister considers that there are exceptional circumstances. This section replaces section 102W of the pre-amended Act.

102CK Notice and taking effect of action

This new section provides a requirement for the Minister to give the PRO notice of a decision to take action after a show cause process or to take action to immediately suspend without a show cause notice.

The section provides that a decision to take action after a show cause process takes effect at the end of the 10 business days after the date of the decision, or a later date if stated in the notice. For a decision to immediately suspend without a show cause notice, the decision takes effect on giving the notice.

This section replaces sections 102W and 102Y of the pre-amended Act. In particular, the section removes the requirement for the Minister to give the applicant an information notice for the decision. Rather, the section requires a notice of the decision be provided. Removing the requirement to issue an information notice removes the avenue of internal review and external review of the decision under the chapter 9 of the Act. The intention of this section is to make the decision only subject to judicial review.

Subdivision 2 Appointment of special manager

This new subdivision provides for the appointment of a special manager.

102CL Functions

This new section provides for the main functions of the special manager, being to monitor the affairs of the PRO during the period of the manager's appointment, and to report to the Minister on the performance of the manager's functions. The section also provides that the special manager has the functions given to them under their instrument of appointment.

The section provides that the special manager is not civilly liable for an act done or omission made honestly and without negligence in performing a function under this subdivision.

The intention of enabling a special manager to be appointed is to provide an alternative oversight mechanism to be available where there is a ground for taking action against the PRO. The power to appoint a special manager is similar to the *Casino Control Act 1982*.

102CM Powers

This new section provides for the powers of the special manager. The section provides that the special manager has the power to do all things necessary and convenient to be done for the performance of their functions. This may include access to documents and records of the PRO relating to the affairs of the PRO, attending any meetings of the Board, and engaging any person to provide advice or other services to the special manager in the performance of the special manager's functions.

102CN Requirement for information or assistance

This new section enables the special manager to require a responsible person, as defined in the section, to give the manager information or assistance that the manager reasonably requires to perform their functions. The requirement is to be made by notice from the special manager. The person must comply with the requirement unless the person has a reasonable excuse. A maximum penalty of 100 penalty units applies. The section provides that a reasonable excuse to not comply may be if doing so may incriminate the individual.

102CO Requirement to take, or refrain from taking, particular action

This new section provides that the special manager may require the PRO to take action, or refrain from taking action, within a stated reasonable period. The requirement is to be provided by notice.

The section provides that the special manager may only give the PRO notice if the special manager reasonably suspects there is or has been maladministration on the part of the PRO, reasonably believes the notice is in the best interests of the Scheme, or reasonably believes the notice is necessary to ensure compliance by the PRO with the Act. The PRO must comply with the requirement unless the PRO has a reasonable excuse. A maximum penalty of 100 penalty units applies.

102CP Obstruction of special manager

This new section prohibits the obstruction of the special manager in the performance of their functions, unless a person has a reasonable excuse. The term ‘obstruct’ is defined in Schedule 1 of the Act to mean includes hinder, resist, attempt to obstruct or threaten to obstruct. A maximum penalty of 100 penalty units applies.

102CQ Remuneration

This new section provides for the remuneration of the special manager. The section provides that if the special manager is not a public service employee, the special manager is entitled to the remuneration stated in the instrument of appointment. ‘Remuneration’ is defined for the purpose of the section to include costs, charges, expenses and commission.

102CR Relationship with other provisions of Act and appointment

This new section clarifies the relationship between this subdivision and other provisions of the Act and the notice of appointment. The section provides that this subdivision applies despite anything contrary in the Act or the notice of appointment of the PRO.

The section also provides that in performing a function or exercising a power under the subdivision, the special manager is not required to consult with the PRO or any other person about how their function is to be performed or whether the power should be exercise.

Subdivision 3 Appointment of administrator

This new subdivision provides for the appointment of an administrator.

102CS Functions

This new section provides for the main functions of the administrator. Where the administrator is appointed on the suspension of the appointment of the PRO, the function of the administrator is to conduct and manage the affairs of the PRO during the period of the suspension. Where the appointment of the administrator is as a result of the cancellation of the appointment of the PRO, the function of the administrator is to be the PRO. The section provides that the administrator also has the functions given to the administrator under their instrument of appointment. The functions of the administrator are to the exclusion of any other person. This section replaces section 102Z of the pre-amended Act.

The section also provides that the administrator is not civilly liable for an act done or omission made honestly and without negligence in performing a function under this subdivision.

The intent of this provision, and the associated subdivision, is to provide the power for an administrator to be appointed to perform the functions of the PRO, for example if the appointment of the PRO has been suspended or cancelled. Such an arrangement is envisioned to be a temporary measure until a suspension has ended, or in the event of a cancellation, a suitable replacement organisation is appointed as the new PRO.

102CT Powers

This new section establishes the administrator's power and provides that the administrator has the power to do all things necessary and convenient to perform their functions. This section replaces section 102ZA of the pre-amended Act.

102CU Requirement for information or assistance

This new section enables the administrator to require a responsible person, as defined in the section, to give the administrator information or assistance that the administrator reasonably requires to perform their functions. The requirement is to be made by notice. The person must comply with the requirement unless a person has a reasonable excuse. A maximum penalty of 100 penalty units applies. The section provides that it is a reasonable excuse for an individual to not comply if doing so may incriminate the individual. This section replaces section 102ZD of the pre-amended Act.

102CV Obstruction of administrator

This new section prohibits the obstruction of the administrator in the performance of their functions, unless the person has a reasonable excuse. The term 'obstruct' is defined in Schedule 1 of the Act to include hinder, resist, attempt to obstruct or threaten to obstruct. A maximum penalty of 100 penalty units applies.

102CW Remuneration

This new section provides for the remuneration of the administrator. The section provides that if the administrator is not a public service employee, the administrator is entitled to the remuneration stated in their instrument of appointment. 'Remuneration' is defined for the purpose of the section to include costs, charges, expenses and commission. This section replaces section 102ZC of the pre-amended Act.

Division 9 Replacement of Organisation

This new division provides for the procedure in the event that the PRO is replaced.

102CX Definitions for division

This new section provides definitions for the purpose of the division and defines 'former Organisation', 'new Organisation', 'relevant entity', 'relevant transfer day', 'transferee', 'transferor' and 'transfer regulation'.

102CY Regulation may provide for transfer of administration of scheme

This new section provides a power for a regulation to provide for the transfer of the administration of the Scheme in the event that there is a replacement of the PRO.

102CZ Transfer of assets, liabilities, etc. under transfer regulation

This new section provides that a transfer regulation may make a provision about certain matters when transferring the administration of the Scheme. A transfer regulation may also make provisions about the accounting treatment in relation to that matter. The section provides that a transfer regulation has effect despite any other law or instrument and may provide for a matter by reference to a document held by an entity. The section also provides that a transfer regulation must not reduce the terms and conditions or employment, or any accrued entitlement to benefits of a person whose employment is transferred under the transfer regulation. The section defines ‘employee’ for the purpose of the section to include a person engaged under a contract of service.

The intention of this provision is to enable the transfer of a business, assets or liabilities where the replacement of the PRO occurs. The transfer will be by regulation, ensuring that relevant matters can be provided for and enabling flexibility in its application.

102DA Effect on legal relationships

This new section provides for the effect on legal relationships for things done under this division or a transfer regulation.

Division 10 Miscellaneous

102DB Obtaining criminal history report of person

This new section provides for the criminal history of a person to be obtained. This applies to a person who is an executive officer or business associate of an applicant, or an executive officer or business associate of the PRO and the person has given written consent to the chief executive to obtain the person’s criminal history. The section provides for the process for obtaining the criminal history. This section replaces section 102ZQ of the pre-amended Act. The section has been amended to reflect contemporary drafting practices, however, is consistent with the approach in the pre-amended Act.

102DC Confidentiality of criminal history information

This new section provides for the confidentiality of criminal history information. The section applies to a person who possesses criminal history information because the person is or has been a person involved in administering the Act. The section prohibits a person using or, directly or indirectly, disclosing to another person the criminal history information unless the use or disclosure is permitted by the section. A maximum penalty of 100 penalty units applies. The section also requires a person who possesses a criminal history report to destroy the report as soon as practicable after it is no longer needed for the purpose for which it was given. The section defines ‘criminal history information’ for the purpose of the section to mean information contained in a report given to the chief executive under section 102DB. The intention of this section is to reduce the impacts and possible risks to the privacy of individuals where criminal history information is obtained.

102DD Corporations Act displacement

This new section declares a provision of this part to be a Corporations legislation displacement provision for section 5G of the *Corporations Act 2001* (Cth), to the extent the provision in this part is incapable of concurrent operation with the provision of the Corporations Act. This section replaces section 102ZR of the pre-amended Act and the intent of the provision remains unchanged.

Clause 12 Amendment of s 243 (Obstructing authorised person)

This clause makes consequential amendments to section 243 as a result of new chapter 4, part 5 regarding the PRO and to reflect contemporary drafting practices. The clause omits section 243(3) which provides for a definition of ‘obstruct’ for the purpose of the section. As a result of new sections in the Bill regarding the obstruction of special manager and obstruction of administrator, the Bill moves the definition of ‘obstruct’ into Schedule 1 to apply consistently across the Act. The clause also replaces the heading of the section from ‘Obstructing’ to ‘Obstruction of’ to reflect contemporary drafting practices.

Clause 13 Amendment of s 245 (Definitions for chapter)

This clause makes consequential amendments to section 245 to replace the division reference in the definition of ‘prescribed provision’ as a result of restructuring new chapter 4, part 5.

Clause 14 Insertion of new ch 16, pt 7

This clause inserts a new part in chapter 16 to provide for transitional provisions for the *Waste Reduction and Recycling (Strengthening the Container Refund Scheme) Amendment Act 2026*.

338 Definitions for part

This new section provides for the definitions of ‘current Organisation’, and ‘new’ in relation to a provision of this Act, for the purpose of this part.

339 Company appointed before commencement

This new section provides for the continuation of the appointment of the company appointed as the PRO in effect immediately before commencement. The section provides that the appointment of the PRO in effect immediately before commencement ends on the day that is three years after the commencement, unless the appointment is renewed.

340 Constitution of current Organisation

This new section provides that the constitution of the current PRO in effect on commencement is taken to comply with the requirements in section 102AF regarding the constitution for three months after the commencement. However, the section provides that the current PRO must amend the constitution within three months after the commencement so that the constitution complies with the requirements in section 102AF.

341 Term of appointment of directors appointed before commencement

This new section provides for the appointment of directors of the Board appointed before commencement. The section provides that the person's appointment as director ends on the earlier of the following, being the day the person's appointment ends under the term of the appointment or under this Act, or the day that is 18 months after the commencement.

The section provides that in working out the number of years that a person has held office, any time the person held office in the current PRO as a director before or after the commencement must be included. The section states that no compensation or other amount will be payable to any person because of this section.

The section provides that it has effect despite any Act or law, or despite any provision of any document, including for example, an appointment, contract or arrangement.

342 Particular corporate documents prepared before commencement

This new section applies to the budget, strategic plan and operational plan of a current PRO that is in effect for the financial year which the section commences. The section provides that these documents are taken to be a corresponding corporate document for the financial year. The section defines 'corresponding corporate document' for the purpose of the section. The intention of this section is to enable the budget, operational plan and strategic plan that is in force during the financial year which the section commences to continue.

343 Particular corporate documents not required for financial year on commencement

This new section provides for the corporate documents which are not required for the financial year in which the section commences.

344 First annual general meeting of current Organisation

This new section provides that the first annual general meeting of the current PRO is taken to have been held on 30 September 2018. The intention of this section is to support compliance with the requirements under the Act where there is reference to a first annual general meeting of a PRO where this relates to the current PRO.

345 Records created or received before commencement

This new section applies to records created or received by the current PRO in the performance of their functions before commencement. The section provides that for the purpose of record keeping requirements, the document is taken to have been created or received by the current PRO on the commencement. The intention of this section is to provide clarity in calculating the period in which the document must be kept by the PRO.

346 Transitional regulation-making power

This new section provides the power to make a transitional regulation to support the legislative and operational shift following the commencement of the amendment Act. The section allows for a regulation to be made of a saving or transitional nature in certain circumstances. The intent

of this section is to enable a regulation to be made where it is necessary to address gaps when the Act itself does not sufficiently provide for transitional matters. The section provides that a transitional regulation may have retrospective operation to a day not earlier than the day this section commences.

The section requires that a transitional regulation must declare that it is transitional. The section also provides that this section and any transitional regulation expire two years after this section commences.

The intention of this section is to permit time-limited, targeted regulations to best support industry during the transition and ensure seamless implementation of the amendment Act.

Clause 15 Amendment of sch 1 (Dictionary)

This clause amends Schedule 1 of the Act to omit the definitions of ‘amendment application’, ‘applicant’, ‘container refund scheme’, ‘criminal history’, ‘eligible company’, ‘eligible individual’, ‘Organisation’ ‘proposed action’, ‘scheme’ and ‘show cause period’.

The clause also inserts new definitions into Schedule 1 for ‘amendment application’, ‘applicant’ ‘board’, ‘corporate document’, ‘criminal history’ ‘disclose’, ‘eligible company’, ‘eligible individual’, ‘former Organisation’, ‘independent auditor’, ‘member’, ‘new Organisation’, ‘obstruct’, ‘Organisation’, ‘proposed action’ ‘relevant entity’, ‘relevant transfer day’, ‘scheme’, ‘scheme agreement’, ‘show cause notice’, ‘show cause period’, ‘transferee’, ‘transferor’ and ‘transfer regulation’.

The clause makes changes to the definitions in Schedule 1 to align with the legislative reforms for the Scheme contained in the amendment Act.