

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

Statement of Compatibility

FOR

Amendment to be moved during consideration in detail by the Honourable Andrew Powell MP, Minister for the Environment and Tourism and Minister for Science and Innovation

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019* (HR Act), I, Andrew Powell MP, Minister for the Environment and Tourism and Minister for Science and Innovation, make this statement of compatibility with respect to an amendment to be moved during consideration in detail of the Waste Reduction and Recycling (Strengthening the Container Refund Scheme) Amendment Bill 2026 (the Bill).

In my opinion, the amendment is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

Overview of the Amendment

The amendment removes doubt and clarifies that the current Product Responsibility Organisation (PRO) for the Container Refund Scheme (the Scheme) has always been a unit of public administration under the *Crime and Corruption Act 2001* (CC Act) to the extent that the PRO was performing its functions.

The amendment will also validate anything done or omitted to be done by the Crime and Corruption Commission (CCC) or any other entity as being valid and lawful had new section 102AO been in force. For example, an investigation or proceeding started before or after the commencement.

On 15 May 2026, the Health, Environment and Innovation Committee (the Committee) tabled its Report No. 24, 58th – Waste Reduction and Recycling (Strengthening the Container Refund Scheme) Amendment Bill 2026 (Committee Report). Recommendation two of the Committee's Report recommended that new section 102AO proposed in the Bill is amended to clarify that the PRO is declared to be, and has always been, a unit of public administration under the CC Act.

The amendment gives effect to recommendation two of the Committee's Report and puts beyond doubt any ambiguity regarding the PRO's status as a unit of public administration for the purpose of the CC Act. This will also ensure that any suspected conduct, prior to the commencement of the Bill, can appropriately be assessed or investigated by the CCC or another entity.

Human Rights Issues

Human rights relevant to amendment to be moved to the Bill (Part 2, Divisions 2 and 3 HR Act)

I have considered each of the rights protected by Part 2 of the HR Act. In my opinion, the human rights under the HR Act that are relevant to this Bill are the rights to:

- a fair hearing (section 31, HR Act); and
- protection against retrospective criminal laws (section 35, HR Act).

Human Rights engaged, but not limited, by the Amendment

Right to fair hearing

The right to a fair hearing under section 31 of the HR Act affirms the right of all individuals to procedural fairness when coming before a court or tribunal. The right applies to both criminal and civil proceedings and guarantees such matters must be heard and decided by a competent, impartial and independent court or tribunal. The right is focused on procedural fairness, which may include a reasonable opportunity to be heard and respond to allegations and have effective access to courts and tribunals.

The amendment declares that the PRO has always been a unit of public administration under the CC Act and validates anything done or omitted to be done by the CCC or any other entity as being valid and lawful had new section 102AO been in force, for example an investigation or proceeding started before or after the commencement.

The amendment does not affect any procedural fairness awarded to individuals if the matter was to be heard. It also does not affect the body which may hear the matter. The amendment clarifies and puts beyond doubt that the PRO has always been and continues to be a unit of public administration for the purpose of the CC Act. On this basis, while the right to a fair hearing is engaged, it is not limited.

Right to protection against retrospective criminal laws

Section 35 of the HR Act prohibits the retrospective application of criminal liability, protecting people from being found guilty of an offence for an action that was not an offence at the time the action occurred, and from being unfairly penalised in situations where a penalty has increased after the offence has been committed. The right does not, however, prevent retrospective changes that do not form part of the criminal liability, penalty and punishment.

The amendment declares that the PRO has always been a unit of public administration under the CC Act and validates anything done or omitted to be done by the CCC or any other entity

as being valid and lawful had new section 102AO been in force. For example, an investigation or proceeding started before or after the commencement. The amendment only retrospectively ensures the PRO is a unit of public administration for the purpose of the CC Act, to enable the CCC to perform its functions. The amendment does not retrospectively change criminal liability, penalty or punishment. On this basis, while the right to protection against retrospective criminal laws is engaged, it is not limited.

As detailed above, while the right to a fair hearing and the right to protection against retrospective criminal laws are engaged, they are not limited under section 13 of the HR Act.

Conclusion

In my opinion, the amendment to be moved to the Bill is compatible with human rights under the *Human Rights Act 2019* because it does not limit a human right.

ANDREW POWELL MP
MINISTER FOR THE ENVIRONMENT AND TOURISM
MINISTER FOR SCIENCE AND INNOVATION

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