

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

Statement of Compatibility

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

In my opinion, the Bill 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 Bill

The primary objective of the Bill is to improve oversight and governance arrangements for 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 Bill delivers amendments that focus on addressing governance and oversight of the Scheme to give effect to the Queensland Government response to the Health, Environment and Innovation Parliamentary Committee (the Committee) report *Improving Queensland's Container Refund Scheme, Report No. 14* (the Report).

Specifically, the Bill amends the WRR Act to strengthen governance and oversight and improve the operation of the Scheme. These amendments include enhancing oversight mechanisms and reporting obligations, introducing fixed terms of appointment for the PRO and directors of the Board, requiring that all appointments of directors to the Board be approved by the Minister and enabling the Minister to withdraw the approval, and changing the composition of the Board in relation to the representation, qualifications, experience and expertise required for appointment. The Bill also continues the operation of existing provisions regarding the power to appoint an administrator and introduces a power to appoint a special manager for the Scheme. The Bill makes other amendments to improve transparency, including through the development and publication of additional reports, plans and other information relating to the Scheme.

These amendments aim to strengthen how the Scheme is managed to increase its efficiency and effectiveness, improve transparency and accountability, and ensure public confidence in the Scheme.

Human Rights Issues

Human rights relevant to the Bill (Part 2, Division 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:

- recognition and equality before the law (section 15 of the HR Act);
- property (section 24 of the HR Act);
- privacy and reputation (section 25 of the HR Act); and
- not be tried or punished more than once (section 34 of the HR Act).

As detailed below, some of these human rights are promoted or are engaged but not limited, while others are limited, but in a way that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality, and freedom under section 13 of the HR Act.

Appointment of Product Responsibility Organisation

The Bill provides for enhanced oversight of the Scheme and the PRO, as the Scheme coordinator, appointed under the WRR Act. To be appointed as the PRO, a company must be an eligible company. This includes being registered under the *Corporations Act 2001* (Cth). The PRO is a company and not an individual for the purpose of the HR Act. As the PRO is not an individual, proposed amendments relating to the PRO do not directly engage with or limit human rights under the HR Act.

Human rights promoted by the Bill

The Bill potentially promotes recognition and equality before the law (section 15 of the HR Act) in relation to the below amendment.

Requirement to not act unfairly

The right to recognition and equality before the law (section 15 of the HR Act) provides that every person has the right to equal and effective protection against discrimination.

To support the Government's response to recommendation 10 of the Report, the Bill provides that the PRO must not act unfairly. Specifically, the Bill ensures that the PRO does not act unfairly, or unreasonably discriminate, against or in favour of any person in situations including when the PRO is negotiating or entering into a contract or when exercising its power. As the Bill prohibits discrimination and supports the equal interaction with every person in relation to the Scheme, the Bill is considered to promote the right to recognition and equality before the law.

Human rights engaged, but not limited, by the Bill

The Bill engages the right to not be tried or punished more than once (section 34 of the HR Act), however the proposal is not considered to limit the human right.

Requirement for executive officers to be eligible individuals

The Bill provides that a company must include in its application to become a PRO, evidence that each of its executive officers are an eligible individual. The PRO's constitution must also require the executive officers of the company to be eligible individuals. An 'executive officer' of a corporation is defined under the WRR Act to include a person who is a member of the governing body of the corporation, or a person who is concerned with, or takes part in, the corporation's management.

The Bill provides that the office of a director of the Board becomes vacant if the director stops being an eligible individual. If an executive officer of the PRO is no longer an eligible individual, the Minister may also take action against the PRO under the WRR Act. This action could include, suspending or cancelling the PRO's appointment or appointing a special manager or administrator.

The Bill defines an 'eligible individual' to mean, amongst other things, an individual who is not disqualified from managing a corporation under part 2D.6 of the *Corporations Act 2001* (Cth), who does not have a conviction, other than a spent conviction, for an offence against the WRR Act, a provision from corresponding law or a provision of the *Environmental Protection Act 1994*, or who does not have a conviction, other than a spent conviction, for an indictable offence against another law.

Section 34 of the HR Act protects a person from being tried or punished more than once for an offence in relation to which the person has already been convicted or acquitted in accordance with the law. This right embodies the principle of double jeopardy. The requirements in relation to being an eligible individual have the potential to limit or otherwise affect an individual's right not to be tried or punished more than once.

However, the scope of the right applies only to criminal proceedings and does not prevent other non-penal consequences arising from the same conduct that does not seek to punish the person but rather protects the public or are disciplinary measures. The requirement to be an eligible individual ensures the relevant person is and remains appropriate to undertake their role. Accordingly, these provisions do not limit the right not to be tried or punished more than once.

Human rights limited but demonstrably justified by the Bill

The Bill potentially limits property rights (section 24 of the HR Act) and the right to privacy and reputation (section 25 of the HR Act) in relation to the below amendments. However, the limitations are demonstrably justified.

Property rights (section 24 of the HR Act)

Introduction of financial penalties and offence provisions

The Bill introduces financial penalties and offence provisions for certain matters in relation to the Scheme.

The Bill continues the operation of existing provisions regarding the power to appoint an administrator and introduces a power to appoint a special manager for the Scheme. To support these provisions, the Bill includes offence provisions requiring a person to provide an

administrator or special manager with information or assistance, and requiring a person to not obstruct an administrator or special manager while they perform their functions.

The Bill also introduces offence provisions regarding the confidentiality of criminal history information and duty of confidentiality of personal information. The Bill requires a person, who possesses criminal history information due to their involvement in administering the WRR Act, to not use or disclose this information unless permitted under the provision. There is also a duty of confidentiality requirement for certain persons involved in the Scheme who have acquired or have access to personal information in that capacity, to not use or disclose the information unless permitted under the provision.

(a) the nature of the right

The right to property protects the right of all persons to own property and provides that people have a right to not be arbitrarily deprived of their property, including money. In a human rights context, ‘arbitrary’ mean capricious, unpredictable, unjust or unreasonable in the sense of not being proportionate to a legitimate aim sought. This right may be limited by the Bill due to the monetary penalties depriving an individual of money.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the provisions that introduce financial penalties and offence provisions relating to an administrator or special manager are to ensure that these persons can fulfil their duties without obstruction or interference. This allows for their functions under the WRR Act to operate as intended which is consistent with a free and democratic society.

The other financial penalties and offence provisions regarding the confidentiality of personal information or criminal history information of a person ensure this information is not disclosed without appropriate authority. This protects an individual’s privacy which is also consistent with a free and democratic society based on human dignity, equality and freedom.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The maximum penalty of 100 penalty units apply to the offence provisions and relates to the seriousness of the offending behaviour. These penalties reflect the gravity of the duties of an administrator or a special manager, as well as the importance of unauthorised disclosure or use of personal information or criminal history information. The inclusion of these offences will assist in achieving the intent of an administrator and special manager effectively performing their functions under the WRR Act. It also provides assurance that an individual’s personal information or criminal history information will not be disclosed without authority.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

There are no less restrictive alternatives available which would be as effective as including a penalty. A penalty provides the intended deterrent and punishment effect. As a maximum

penalty is provided, discretion still remains to ensure that penalties are proportionate to the circumstances of each individual case.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

On balance, the impacts of the amendments in the Bill are outweighed by the need to ensure an administrator and a special manager can fulfil their responsibilities and that personal information about an individual is not arbitrarily disclosed. These provisions are intended to disincentivise the prohibited conduct, limiting the HR Act minimally. The penalties reflect the seriousness of the offence and are comparable to similar offences in other legislation.

(f) any other relevant factors

Nil.

Right to privacy and reputation (section 25 of the HR Act)

Withdrawal of approval of appointment to the Board

The Bill expands on the existing appointment provisions for directors of the Board to require the appointment of all directors to be approved by the Minister. Currently, the Minister has the power to approve the appointment of the chairperson and the director representing community interests. In providing for the approval of director appointments, the Bill also enables the Minister to withdraw the approval.

(a) the nature of the right

The right to privacy and reputation (section 25 of the HR Act) provides that a person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with, and not to have the person's reputation unlawfully attacked.

The human right relating to privacy and attacks on reputation is contained in article 17 of the International Covenant on Civil and Political Rights. Article 17 provides that no one shall be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence, nor to unlawful attacks on their honour and reputation. In addition, it provides that everyone has the right to the protection of the law against such interference or attacks.

The scope of the right to privacy is broad and protects the privacy of people in Queensland from unlawful or arbitrary interference. It extends to a person's private life more generally, including protecting the individual against interference with their home. Therefore, the right in section 25(a) of the HR Act has been interpreted as including the right to work, because it relates to the person's ability to provide for their family and home.

Therefore, the right to privacy and reputation is potentially limited as the Bill permits the Minister to withdraw the approval of appointment of a director of the Board.

- (b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the limitation on the right to privacy and reputation is to ensure that a director's performance remains to the highest standard and they continue to maintain the requirements of a director under the WRR Act.

The directors of the Board have an important role in governing the PRO. They ensure the Scheme operates in accordance with the legislative requirements under the WRR Act. Given the important role of the PRO in administering the Scheme which the broader community participates in, upholding high standards of the Board are consistent with a free and democratic society.

- (c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The limitation on the right to privacy and reputation of a director is required to ensure they continue to maintain high standards of performance, behaviour and integrity. This will ensure the director remains accountable for their role on the Board and the operation of the Scheme.

The limitation on the right to privacy and reputation of a director is considered necessary to achieve the purpose of the Bill to enhance oversight mechanisms and arrangements, improve governance and accountability and increase transparency of the Scheme.

- (d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

There are no less restrictive and reasonably available alternatives to achieve the purpose of the Bill. The amendments will ensure that directors of the Board maintain high standards of performance, behaviour and integrity. As the decision maker, the Minister is accountable for their decision to approve the appointment of directors. The ability to remove this approval will provide a mechanism to ensure the ongoing appropriateness of directors appointed to the Board. There are no less restrictive and reasonable available ways to achieve the purpose of the Bill.

- (e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The amendment to provide that a Minister may withdraw the approval of an appointment of a director to the Board does not create significant limitations on a person's privacy and reputation. The rights of individuals must be balanced against the rights of the public and the community to ensure that the Scheme operates with efficiency and integrity. Given the critical nature of a director's role, it is considered that upholding high standards of performance, behaviour and integrity outweigh the modest limitation on the right to privacy and reputation.

- (f) any other relevant factors

Nil.

Professional requirements for the Board

The Bill changes the composition of the Board regarding the representation, qualifications, experience or expertise required of directors of the Board. While it is the applicant's discretion as to whether to seek nomination for appointment to the Board, these provisions may engage the right to privacy and reputation.

(a) the nature of the right

Section 25 of the HR Act protects a person from interferences and attacks upon their privacy, family, home, correspondence (written and verbal) and reputation. The scope of the right to privacy is very broad and protects personal information and data collection. Only lawful and non-arbitrary intrusions may occur upon privacy and reputation.

The requirement for an applicant to demonstrate that they have the prescribed employment, qualifications or experience required for the role of director of the Board, has the potential to limit or otherwise affect the applicant's right to privacy and reputation.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The function of the Board is to govern the PRO and ensure it is meeting its obligations for the Scheme. As a PRO is a not for profit organisation that administers the Scheme for the community, it is important the Board is appropriately qualified and experienced to ensure the effective operation of the Scheme.

Requesting information regarding a person's relevant qualifications or experience is not deemed an arbitrary requirement for employment, noting the nature of the role of the director of the Board. These requirements will mitigate the potential risk of persons appointed to the Board not having the appropriate qualifications and experience required for the role.

The purpose of limiting the right to privacy and reputation is to assist the decision maker in determining whether the person has the appropriate qualifications and experience required to discharge the functions of the role.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

Limiting the right to privacy and reputation by requiring a person demonstrates their professional qualifications and experience as part of considering their approval for appointment will enable the Minister, as the decision maker, to appropriately consider their suitability for the role.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

The provisions in the Bill are the least restrictive way of achieving the policy intent of ensuring a director of the Board has the appropriate qualifications and experience required to fulfil their

functions. Further, the *Information Privacy Act 2009* will provide safeguards as to how personal information must be collected, stored, used and disclosed.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

Any potential limitation on the human right of privacy and reputation arising from the amendments is considered to be outweighed by the benefits to the operation of the Scheme and the community. The amendments ensure that the directors of the Board have the appropriate qualifications and experience required to perform their functions.

(f) any other relevant factors

Nil.

Conclusion

In my opinion, the Waste Reduction and Recycling (Strengthening the Container Refund Scheme) Amendment Bill 2026 is compatible with human rights under the *Human Rights Act 2019* because it limits human rights only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the HR Act.

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

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