



ANNO TRICESIMO QUINTO

# ELIZABETHAE II REGINAE

A.D. 1986

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No. 26 of 1986

An Act to amend the Beverage Container Act, 1975.

[Assented to 20 March 1986]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title.

1. (1) This Act may be cited as the "Beverage Container Act Amendment Act, 1986".

(2) The Beverage Container Act, 1975, is in this Act referred to as "the principal Act".

Commencement.

2. This Act shall come into operation on a day to be fixed by proclamation.

Repeal of s. 3.

3. Section 3 of the principal Act is repealed.

Amendment of  
s. 4—  
Interpretation.

4. Section 4 of the principal Act is amended—

(a) by striking out the definitions of "container", "description", "exempt container", "glass container" and "refund amount" and substituting the following definitions:

"container" means a container of any kind made for the purpose of containing a beverage, being a container which when filled with the beverage is sealed for the purposes of storage, transport and handling prior to its sale or delivery for the use or consumption of its contents:

"glass container" means a container made of glass whether alone or in combination with any other substance or thing:

"low alcohol wine-based beverage" means a beverage—

(a) that contains wine;

and

(b) that at 20° Celsius contains less than 8 per cent alcohol by volume:

“mark” in relation to a container means mark the container or any label on the container by any method (including embossment);

“refund amount” in relation to a container of a particular description means an amount prescribed as the refund amount in relation to containers of that description;

and

(b) by striking out the definition of “the appointed day”.

5. Section 5 of the principal Act is repealed and the following sections are substituted: Repeal of s. 5 and substitution of new sections.

5. This Act does not apply to glass containers made for the purpose of containing wine or spirituous liquor other than glass containers made for the purpose of containing a low alcohol wine-based beverage. Act not to apply to certain glass containers.

5a. (1) The Governor may, by regulation, exempt containers of a specified description from the application of this Act or specified provisions of this Act either unconditionally or subject to conditions specified in the regulations. Exemption of certain containers by regulation.

(2) This section does not apply to containers to which section 5b applies.

5b. (1) This section applies to—

(a) glass containers made after the commencement of this section for the purpose of containing beer within the meaning of the Liquor Licensing Act, 1985; Exemption of certain glass containers by Ministerial notice.

or

(b) glass containers of a description prescribed for the purposes of this section.

(2) The Minister may, by notice published in the *Gazette*, exempt glass containers of a specified description from the application of section 7 if the Minister is satisfied—

(a) that the containers are made so as to be refilled not less than 4 times;

(b) that the containers are marked in a manner and form approved by the Minister with statements indicating that they are refillable;

and

(c) that proper arrangements have been made for the re-use of the containers when returned to collection depots by refilling as referred to in paragraph (a) and by re-use of the glass of which they are made.

(3) The Minister may, by notice published in the *Gazette*, vary or revoke a notice under this section.

6. Section 6 of the principal Act is repealed and the following section is substituted: Repeal of s. 6 and substitution of new section.

Markings, etc., as to the refund amount for beverage containers.

6. (1) A retailer shall not sell a beverage in a container, or cause, suffer or permit a beverage to be sold in a container, unless the container—

(a) is marked in a manner and form approved by the Minister with a statement indicating the refund amount applicable to that container;

and

(b) if the Minister so requires, has some other mark or feature approved by the Minister to indicate that a refund amount is applicable to that container.

Penalty: \$2 000.

(2) In proceedings for an offence against subsection (1) relating to containers of a particular description, a writing purporting to be under the hand of the Minister specifying—

(a) the manner and form of marking approved by the Minister under that subsection in relation to containers of that description;

or

(b) the mark or feature required and approved by the Minister under that subsection in relation to containers of that description,

shall, in the absence of proof to the contrary, constitute proof of the matters so specified.

Repeal of heading to Part III and substitution of new heading.

7. The heading to Part III of the principal Act is repealed and the following heading is substituted:

### PART III

#### RETURN OF CONTAINERS.

Amendment of s. 7—  
Retailer to pay refund amount for empty glass containers.

8. Section 7 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “on or after the appointed day,”;

and

(b) by striking out from subsection (1) the passage “Two hundred dollars” and substituting the passage “\$2 000”.

Repeal of heading to Part IV.

9. The heading to Part IV of the principal Act is repealed.

Repeal of s. 8.

10. Section 8 of the principal Act is repealed.

Amendment of s. 10—  
Retailers not to sell certain containers except within collection area.

11. Section 10 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “On or after the appointed day a” and substituting the word “A”;

(b) by striking out from subsection (1) the passage “Two hundred dollars” and substituting the passage “\$2 000”;

and

(c) by inserting after subsection (1) the following subsection:

(1a) This section does not apply to containers to which section 7 applies.

12. Section 11 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “On or after the appointed day a” and substituting the word “A”;

and

(b) by striking out from subsection (1) the passage “Two hundred dollars” and substituting the passage “\$1 000”.

Amendment of s. 11—  
Retailers to exhibit signs showing location of collection depots.

13. Section 12 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “on or after the appointed day”;

and

(b) by striking out from subsection (1) the passage “Five hundred dollars” and substituting the passage “\$2 000”.

Amendment of s. 12—  
Collection depots to pay refund amount for certain empty containers.

14. Section 13 of the principal Act is amended by striking out from subsection (2) the passage “Five hundred dollars” and substituting the passage “\$2 000”.

Amendment of s. 13—  
“Ring pull” containers prohibited.

15. Section 13a of the principal Act is amended by striking out the passage “Five hundred dollars” and substituting the passage “\$2 000”.

Amendment of s. 13a—  
Certain glass containers prohibited.

16. The following Part is inserted after section 13a of the principal Act:

Insertion of new Part VA.

## PART VA

### APPOINTMENT AND POWERS OF INSPECTORS

13b. (1) The Minister may appoint a suitable person as an inspector for the purposes of this Act.

Appointment of inspectors.

(2) An appointment under this section may be subject to such conditions as the Minister thinks fit.

(3) The Minister may vary or revoke an appointment at any time.

(4) An inspector shall be provided with a certificate evidencing the inspector's appointment under this section.

(5) An inspector shall, at the request of a person in relation to whom the inspector has exercised, or intends to exercise, any power under this Act, produce for the inspection of the person, the certificate of appointment furnished under this section.

13c. An inspector may, subject to the conditions of the inspector's appointment, at any reasonable time—

Powers of inspectors.

(a) enter and inspect premises for any reasonable purpose connected with the administration of this Act;

- (b) require a person who the inspector believes has committed, or is about to commit, an offence against this Act to state the person's full name and usual place of residence;
- (c) require a person who the inspector reasonably believes has knowledge concerning any matter relating to the administration of this Act to answer questions in relation to those matters;
- (d) require a person who has custody of records or documents of, or relating to, any matter dealt with by this Act to produce those records or documents;
- (e) inspect any records, documents or objects produced or found upon premises under this section;
- (f) take copies of, or extracts from, records or documents produced or found upon premises under this section;
- (g) where the inspector suspects on reasonable grounds that an offence against this Act has been committed, seize and remove any records, documents or objects that, in the opinion of the inspector, afford evidence of the offence.

Penalty for hindering, etc., inspectors.

13d. (1) No person shall, without reasonable excuse—

- (a) hinder an inspector in the exercise of powers conferred by this Part;
- (b) refuse or fail to comply with a requirement of an inspector under this Part;
- (c) refuse or fail to answer a question put by an inspector under this Part to the best of the person's knowledge, information and belief.

Penalty: \$2 000.

(2) A person is not required to answer a question under this section if the answer would tend towards self-incrimination.

Amendment of s. 17—  
Regulations.

17. Section 17 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) The regulations may prescribe a penalty not exceeding \$1 000 for any contravention of, or non-compliance with, a provision of the regulations.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor