



Environment Protection (Beverage Containers and Plastic Bags) Act 2011

Annual Report 2012-2013

TABLE OF CONTENTS

Executive Summary	i
Chief Executive Foreword	ii
1 Legislation	1
1.1 Mutual Recognition Act 1992 (Cth)	1
2 Regulation	2
3 Container Deposit Scheme approvals	2
3.1 Beverage container supply approval	2
3.2 CDS Coordinator approval.....	3
3.3 Collection Depot approval.....	3
4 Operation of the Container Deposit Scheme	3
4.1 CDS Coordinators.....	3
4.2 Collection Depots.....	4
5 Plastic Bag Ban	4
Figure 1: One retailer’s plastic bag usage in the Northern Territory	5
Table 1: Keep Australia Beautiful Annual Results 2011/12 Tabulations – Plastic Bags	5
6 Compliance and enforcement	6
6.1 Container Deposit Scheme	6
6.2 Plastic Bag Ban	6
7 Container Deposit Scheme Outcomes	7
7.1 CDS Coordinators.....	7
Table 2: Annual return rates of containers by material type	7
7.2 Collection Depots.....	8
Figure 2: Number of containers redeemed at Collection Depots by quarter	8
8 SA/NT Intergovernmental Agreement	8
Appendix 1 – Key definitions	10

Executive Summary

The *Environment Protection (Beverage Containers and Plastic Bags) Act 2011* provides the legal framework for the Northern Territory Container Deposit Scheme and the plastic bag ban. The second annual report outlines the administration and achievements of these two schemes for the 2012/2013 financial year.

In 2012 several major beverage suppliers began court proceedings against the Northern Territory claiming the Act was invalid on the basis that it breached the *Mutual Recognition Act 1992* (MRA). The Federal Court granted a declaration that certain clauses were inconsistent with the MRA and as a result some major suppliers withdrew from the scheme.

The scheme continued through Northern Territory Government funding and the community has continued to show strong support for the scheme, redeeming 69 833 470 containers at the 15 Collection Depots that have been operating across the Northern Territory.

The banning of polyethylene light weight carry bags in the Northern Territory is also showing positive results. One major Northern Territory retailer has reported a drop in usage of almost 16 million plastic bags in the first year of the ban. A review on the effectiveness of the plastic bag ban will be completed in 2014.

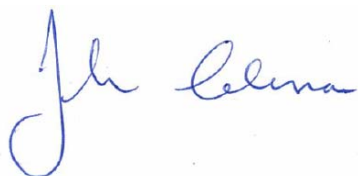
Chief Executive Foreword

I am pleased to present the second annual report of the 2012-2013 administration of the *Environment Protection (Beverage Containers and Plastic Bags) Act 2011*. The annual report details the operation and performance of the Container Deposit Scheme and Plastic Bag Ban's second year in the Northern Territory.

The past year has seen the Container Deposit Scheme achieve support on the permanent exemption from the requirements of the *Mutual Recognition Act 1992* (Cth). There has been an almost 20% increase on beverage container return rates from the previous year (now 46%), and the regional/remote communities of Milingimbi and Wagait Beach have had access to the CDS.

The plastic bag ban has seen positive results with a 63% reduction in the number of light weight plastic bags found in the litter stream across the Territory.

Territorians are to be applauded on the role they play in both programs and I encourage everyone to continue to collect and cash in their containers.



John Coleman, Chief Executive
Department of Lands, Planning and the Environment

1 Legislation

The *Environment Protection (Beverage Containers and Plastic Bags) Act 2011* (NT) (the Act) was passed by the Legislative Assembly in February 2011 and assented on 4 March 2011. The Act provides the legal framework for the Northern Territory Container Deposit Scheme (CDS) and regulation of the supply of single-use, lightweight, non-biodegradable plastic bags by retailers.

The CDS began operating in the Northern Territory in January 2012. The Plastic Bag Ban came into effect in September 2011.

Section 92 of the Act states that the Minister must, within three months after the end of the financial year, prepare a report about the administration of this Act. The report is to then be tabled in the Legislative Assembly.

1.1 Mutual Recognition Act 1992 (Cth)

A number of major beverage suppliers began court proceedings against the Northern Territory in December 2012. They claimed the Act was invalid on the basis that it breached the *Mutual Recognition Act 1992* (Cth) (MRA) and sought a declaration that would allow the sale of beverages in regulated containers without the need to gain approval of containers sold into the Northern Territory or the labelling requirement to include approved refund markings.

The MRA applies the 'mutual recognition principle' in relation to goods. The mutual recognition principle, as explained at section 9 of the MRA, is that goods produced in or imported into the first State, that may be lawfully sold in that State, may, by virtue of the MRA, be sold in the second State.

The Territory Government was granted a temporary 12 month exemption from the Mutual Recognition Regulation and the Trans-Tasman Mutual Recognition Regulation in relation to the requirement for an approved refund marking on beverage container labels. This temporary exemption expired in January 2012. A permanent exemption had not yet been granted by that time.

On 4 March 2012 the Federal Court granted the declaration sought by several major beverage suppliers. A number of beverage manufacturers withdrew from the CDS following the granting of the declaration. The Northern Territory Government began underwriting the CDS on 27 March 2013. This allowed time to finalise its application to permanently exempt the CDS from operation of the MRA.

All States and Territories and the Commonwealth had agreed to permanently exempt the CDS from the requirements of the MRA at the close of the 2012/13 financial year.

2 Regulation

The *Environment Protection (Beverage Containers and Plastic Bags) Regulations 2011* were gazetted on 13 April 2011. At that time, they were created to enable the plastic bag ban to commence. Since that time, several amendments have been made to include additional provisions for the Container Deposit Scheme (CDS).

One regulatory change was drafted in 2012/13. This regulation related to CDS transitional matters. The interruption to operations that was created by the Federal Court challenge resulted in the need to extend the transitional time for approval refund marking to June 2014. By 30 June 2014 all approved containers must have one of the following refund markings:

- "10c refund at collection depots when sold in NT" or
- "10c refund at SA/NT collection depots in state/territory of purchase"

3 Container Deposit Scheme approvals

3.1 Beverage container supply approval

Under Part 2 of the Act manufacturers or first importers of regulated containers are required to hold a supply approval issued by the Chief Executive Officer (CEO) of the Agency responsible for administering the Act. The supply approval for the containers will only be issued if the CEO is satisfied that the container bears the approved refund marking, is recyclable and that there is an ongoing, effective and appropriate Waste Management Arrangement in place.

Generally supply approvals are held with the manufacturer of the product, however, when a product is imported directly into the Northern Territory and not through a national distributor, then the distributor, importer or retailer is required to seek an approval for that product.

Manufacturers are able to register their products for a supply approval via an online database.

Throughout the 2012/13 financial year there were approximately 3700 approved beverage containers in the CDS. Over 1000 container approvals were cancelled upon request by manufacturers following the Federal Court declaration that certain components of the Act were inconsistent with the MRA.

Permanent exemption from the MRA will require these manufacturers to resubmit applications for containers approvals in order to be able to sell their products in the NT.

3.2 CDS Coordinator approval

CDS Coordinators coordinate the activities of CDS participants under the CDS. They collect, handle and deliver for reuse, recycling or other appropriate disposal, approved containers received from Collection Depots.

CDS Coordinators are responsible for the reimbursement of the refund amount and reasonable handling costs to Collection Depots, who have accepted delivery of empty approved containers and paid the refund amount to the consumer.

3.3 Collection Depot approval

An approved Collection Depot is a facility or premises, including a reverse vending machine, approved under the Act for the collection and handling of approved containers delivered to the facility or premises in consideration of the payment of refund amounts for containers.

The operator of an approved Collection Depot pays the refund amount to the consumer for an empty approved container. The Collection Depot then delivers the container to a CDS Coordinator who pays the refund amount and a handling fee relating to the sorting, cleaning, storing, packing and processing of the container to ensure that it can be reused, recycled or otherwise appropriately disposed of.

There were 15 approved Collection Depots (including reverse vending machines) operating in the Northern Territory by the end of the 2012/13 financial year.

No new approvals for Collection Depots were issued over the 2012/13 period, however, an already approved Collection Depot opened in Milingimbi in December 2012.

4 Operation of the Container Deposit Scheme

4.1 CDS Coordinators

Five CDS Coordinators continue to be approved to operate under the scheme; NT Coordinators Pty Ltd, Statewide Recycling, Envirobank NT Pty Ltd, NT Recycling Solutions Pty Ltd (NTRS) and Marine Stores Pty Ltd.

The CDS Coordinators were no longer involved in the scheme from 28 March 2013 for the remainder of the 2012/13 financial year due to the NT Government financing the scheme and dealing directly with approved collection depots. This ensured that the community continued to have access to the CDS while finalising a permanent exemption.

4.2 Collection Depots

15 Collection Depots were operating at locations across the NT during the 2012/13 financial year.

The following Collection Depots were open to the public:

- Barkley Metal Traders - Tennant Creek
- MT Bins Pty Ltd- Katherine
- Murlan Pty Ltd (Trading as Bagnall Agencies) – Elliot
- Envirobank NT Pty Ltd – Pinelands
- Veolia Environmental Services – Berrimah
- Veolia Environmental Services – Alice Springs
- Aputula Community Store – Finke
- Envirobank NT Pty Ltd - mobile depot visited Wagait Beach

The following Reverse Vending Machines (RVMs) were operating:

- Envirobank NT Pty Ltd – Charles Darwin University
- Envirobank NT Pty Ltd – Parap
- Envirobank NT Pty Ltd – Pinelands
- Envirobank NT Pty Ltd - Millingimbi
- Revive Recycling Pty Ltd – Nightcliff

The following Collection Depots were accepting containers from commercial operators only:

- NT Recycling Solutions Pty Ltd – Berrimah
- Greg Myer Paving Pty Ltd (Trading as Territory Can Man) - Winnellie

Collection Depots were held responsible for the reuse or recycling of materials during the period in which the NT Government underwrote the scheme.

5 Plastic Bag Ban

The Northern Territory plastic bag ban has been in effect since 1 September 2011. Since that time retailers have not been permitted to make available or sell polyethylene light-weight carry bags with handles and a thickness of less than 35 microns.

The Act requires that the Minister must, after the second anniversary of the prohibition date appoint a person to prepare a report on the effect the plastic bag ban has had on the community and the effectiveness of the ban. This report will be made available to the public in 2014.

A preliminary assessment of the plastic bag ban shows positive results. A major Northern Territory retailer reported that in the two years prior to the ban's

commencement, approximately 20 million plastic bags were given out to consumers each year. In the first year of the plastic bag ban, just 4.2 million alternative bags were sold. The increase in garbage bag sales in this period should also be taken into account. In 2011/12 sales increased by less than 37 000. Overall, this particular retailer reported that the first year of the plastic bag ban (September 2011 to August 2012) saw plastic bag usage through their stores drop by almost 16 million bags. See Figure 1.

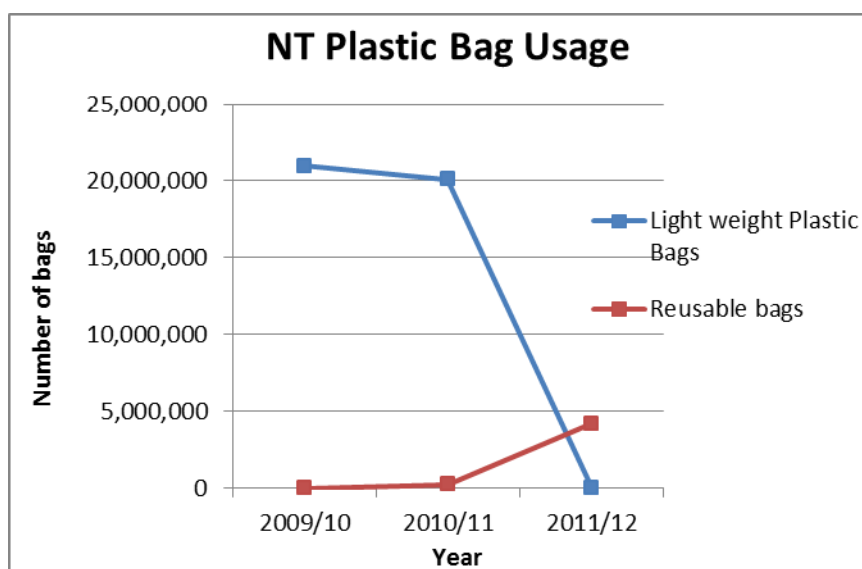


Figure 1: One retailer’s plastic bag usage in the Northern Territory

The Keep Australia Beautiful (KAB) Annual Results 2011/12 Tabulations have also shown very positive results. KAB’s National Litter Index counts are conducted in November and May every year. All litter items found over eight site types including beaches and car parks are recorded. As Table 1 indicates, in November 2011, 56 lightweight carry bags were collected and four heavy, glossy bags (heavyweight plastic reusable bags) were found. Only 18 light weight plastic bags were found six months after the plastic bag was implemented. This shows a 63% reduction in the number of all bag types found in the litter count.

Table 1: Keep Australia Beautiful Annual Results 2011/12 Tabulations – Plastic Bags

Bag Type	November 2011	May 2012
Lightweight carry bag	56	18
Heavy, glossy bag	4	4
TOTAL	60	22

6 Compliance and enforcement

The initial objective for compliance and enforcement is to focus on information and education to ensure that legal requirements are understood and that approval holders operate consistently with the Act and their conditions of approval.

Thirteen authorised officers were appointed under the Act to monitor compliance and undertake enforcement action.

6.1 Container Deposit Scheme

A number of investigations have been conducted into the CDS. Reports of non-compliance received during 2012/13 related to:

- unregistered products being received at Collection Depots;
- unregistered products for sale at retail outlets;
- incorrect refund markings on products for sale in regulated containers; and
- approved CDS participants operating outside of their CDS approvals.

Based on a compliance program, Authorised Officers acted on the above reports that were received by CDS participants and the community. A series of steps were undertaken in an effort to divert any non-compliance without the need for imposing infringement or prosecution. No infringements were issued during 2012/13.

Collection Depots were required to submit progress declarations to ensure they complied with arrangements for the recycling, reuse or appropriate disposal of containers during the NT Government underwriting of the CDS from March 2013.

6.2 Plastic Bag Ban

Authorised officers have conducted intermittent assessments of retailers to ensure compliance with the Act. No complaints have been received regarding retailers not complying with the legislation. No offences have been identified and no infringement notices have been issued.

7 Container Deposit Scheme Outcomes

A number of CDS participants withdrew from the CDS following the Federal Court declaration that components of the Act were inconsistent with the *Mutual Recognition Act* (MRA). As a result no data was received from CDS Coordinators for the April to June 2013 quarter. Collection Depots provided redemption data for this period. Sales data for this quarter has been based on the data provided for the same period last year.

7.1 CDS Coordinators

150 810 032 approved containers were sold in the Northern Territory for the period 1 July 2012 to 30 June 2013. 69 833 470 of these were returned to the CDS. As Table 2 demonstrates, an annual return rate of 46% was achieved which is approximately a 20% increase on last year's reporting period.

Table 2: Annual return rates of containers by material type

Container material	Total containers sold	Number returned	Return rate (%)*
Aluminium	64 489 408	35 746 199	55%
PET	29 150 312	11 497 069	39%
HDPE	4 005 210	629 034	16%
Glass	43 599 733	19 277 169	44%
LPB	9 565 009	2 683 969	28%
Other container	360	30	
TOTAL	150 810 032	69 833 470	46%

*All percentages have been rounded to nearest whole number

Please see Appendix 1 for key definitions of terms used in table 2.

7.2 Collection Depots

69 713 601 containers were redeemed at Collection Depots from 1 July 2012 to 30 June 2013. That is made up of 50 753 355 containers in the Darwin region and 18 960 246 in areas outside of Darwin.

As Figure 2 demonstrates, the number of containers redeemed at Collection Depots has shown positive growth over the 2012/13 year. January to March 2013 indicates a spike with an unusually high number of containers redeemed. This was due to communities redeeming all of their stored containers as there was a perception of uncertainty surrounding the future of the scheme at the time of the Federal Court declaration on the MRA.

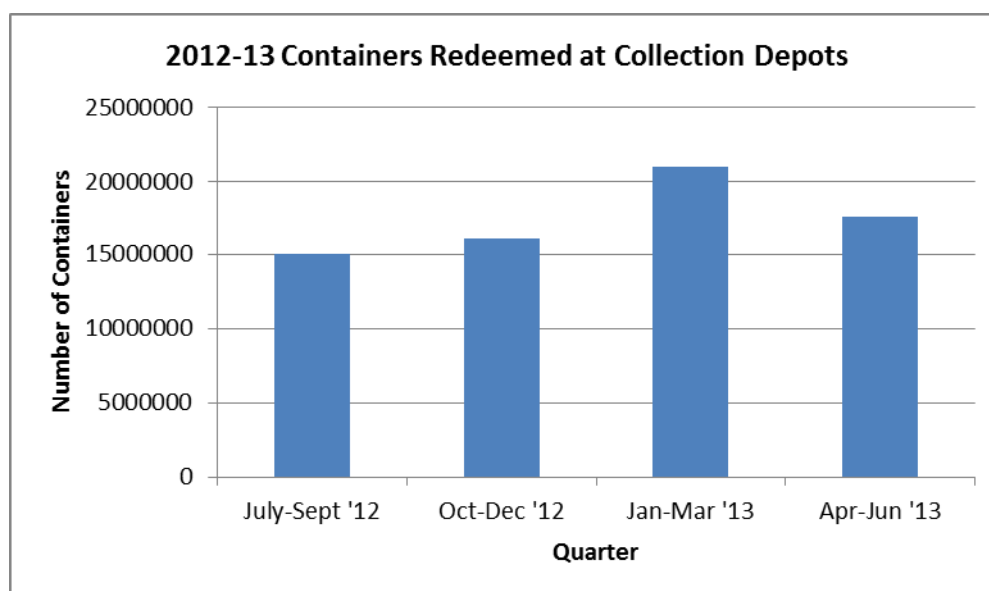


Figure 2: Number of containers redeemed at Collection Depots by quarter

8 SA/NT Intergovernmental Agreement

An Intergovernmental Agreement was established between the South Australian (SA) and the Northern Territory (NT) Governments in December 2011. The agreement was signed on behalf of SA by the Minister for Sustainability, Environment and Conservation and for the NT by the then Minister for Natural Resources, Environment and Heritage.

The agreement provides for mutual assistance and, where possible, alignment of the administration and development of the respective Container Deposit Schemes. The objectives of the agreement are:

- To provide ongoing communication and where possible promote consistency in the administration and development of CDS's of both jurisdictions;
- To commit to cooperation on strategies to manage cross border flows of beverage containers and jointly resolve potential issues of fraudulent activity;
- To promote consistency on key components of the two schemes;
- As far as possible to coordinate any legislative changes to promote consistency; and
- To work towards making the CDS a corresponding law.

The SA and NT CDS teams met during the second year of the NT CDS. Containers redeemed, return rates, container types included under both schemes and other appropriate issues were discussed.

Appendix 1 – Key definitions

Containers returned refers to the number of containers that have been aggregated and returned to Coordinators from Collection Depots.

Return rates refers to the total percentage of container numbers that have been returned to Coordinators in relation to the total number of containers sold in the Territory.

Containers redeemed refers to the number of approved containers that have been accepted by Collection Depots to receive a 10 cent refund by member of the public, Collection Points or commercial entities.

PET (polyethylene terephthalate) refers to the product that plastic beverage containers are made from (for example, water bottles).

HDPE (*high-density polyethylene*) refers to materials that some juice containers are made from.

LPB (*liquid paper board*) is utilised in the packaging of beverages such as popper juices. LPB also includes ASEPTIC which is the packaging of beverages in a sterile container, used for example in long life UHT beverages.

Other container refers to steel, foil sachets and other plastics including biodegradable, photo-sensitive and plant-based plastics. Also includes resin types established since 1988 and those marked with the number 7.