



# **Hazardous Waste (Regulation of Exports and Imports) Amendment Act 2017**

**No. 8, 2017**

***An Act to amend the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*, and for related purposes***

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)



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**No. 8, 2017**

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**An Act to amend the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*, and for related purposes**

*[Assented to 22 February 2017]*

The Parliament of Australia enacts:

## **1 Short title**

This Act is the *Hazardous Waste (Regulation of Exports and Imports) Amendment Act 2017*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	22 February 2017
2. Schedule 1, Part 1	The day after this Act receives the Royal Assent.	23 February 2017
3. Schedule 1, Part 2	The later of: (a) 1 July 2017; and (b) the day after this Act receives the Royal Assent.	1 July 2017 (paragraph (a) applies)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendments**

### **Part 1—Main amendments**

#### ***Hazardous Waste (Regulation of Exports and Imports) Act 1989***

##### **1 Section 4 (definition of *Basel Convention*)**

Omit “(a copy of the English text of which is set out in the Schedule)”,  
substitute “, as amended and in force for Australia from time to time”.

##### **2 Section 4 (at the end of the definition of *Basel Convention*)**

Add:

Note: The Convention is in Australian Treaty Series 1992 No. 7 ([1992]  
ATS 7) and could in 2017 be viewed in the Australian Treaties  
Library on the AustLII website (<http://www.austlii.edu.au>).

##### **3 At the end of subsection 13A(1)**

Add:

Note: If a transit proposal is in connection with the movement of hazardous  
waste from one OECD country to another OECD country, a transit  
permit may not be required for that proposal: see paragraph 40A(1)(b).

##### **4 Subsection 18A(2)**

Repeal the subsection, substitute:

(2) Despite subsection (1), the Minister may grant a Basel export  
permit in the circumstances described in that subsection if the  
Minister is satisfied that there are exceptional circumstances.

##### **5 Paragraph 21(1)(e)**

Repeal the paragraph.

##### **6 Subsection 32(1)**

Omit “, not exceeding \$8,000,”.

## **7 At the end of section 32**

Add:

- (7) The regulations may make provision for and in relation to the indexation of prescribed fees.

## **8 Section 33 (heading)**

Repeal the heading, substitute:

### **33 Publication of certain particulars on Department's website**

#### **9 Subsection 33(1)**

Omit "in the *Gazette*", substitute "on the Department's website".

#### **10 Subsection 40A(1)**

Repeal the subsection (not including the note), substitute:

*Prohibition of bringing waste into Australia*

- (1) A person must not bring hazardous waste into Australia (whether or not by way of import) in the course of carrying out a transit proposal unless:
- (a) the person is the holder of a transit permit authorising the person to bring the waste into Australia; or
  - (b) the carrying out of the transit proposal is in connection with the movement of hazardous waste from one OECD country to another OECD country and the Minister has notified the person in writing that the person does not require a transit permit for that proposal.

#### **11 After subsection 40A(1)**

Insert:

- (1A) Before notifying a person under paragraph (1)(b), the Minister must be satisfied:
- (a) that carrying out the transit proposal will not pose a significant risk of injury or damage to human beings or the environment; and



(b) of any other matters prescribed by the regulations for the purposes of this paragraph.

(1B) Subsection (1A) does not limit the matters that the Minister may take into account in deciding whether to give a notification under paragraph (1)(b).

(1C) The Minister must, as soon as practicable after giving a notification under paragraph (1)(b), cause to be published, on the Department's website, particulars of the notification.

## **12 At the end of section 40A**

Add:

*OECD country definition*

(6) In this section:

**OECD country** means a country that is a member of the Organisation for Economic Cooperation and Development under the Convention on the Organisation for Economic Cooperation and Development done at Paris on 14 December 1960.

Note: The Convention is in Australian Treaty Series 1971 No. 11 ([1971] ATS 11) and could in 2017 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

## **13 Section 60**

Before “The”, insert “(1)”.

## **14 At the end of section 60**

Add:

; or (c) an APS employee who holds, or is acting in, an Executive Level 2, or equivalent, position in the Department.

(2) In performing functions or exercising powers under a delegation, the delegate must comply with any directions of the Minister.

## **15 Subsection 62(1)**

Omit “(1)”.

## 16 Subsection 62(2)

Repeal the subsection.

## 17 Schedule

Repeal the Schedule.

## 18 Application and transitional provisions

- (1) The repeal and substitution of subsection 18A(2) of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* made by this Part applies in relation to permits granted on or after the commencement of this item.
- (2) The repeal of paragraph 21(1)(e) of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* made by this Part applies in relation to permits granted on or after the commencement of this item.
- (3) The amendment of subsection 33(1) of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* made by this Part applies in relation to the publication of information on or after the commencement of this item.
- (4) The repeal and substitution of subsection 40A(1) of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* made by this Part applies in relation to hazardous waste brought into Australia on or after the commencement of this item.
- (5) Regulations in force under subsection 62(1) of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* immediately before the commencement of this item continue in force on and after that commencement as if they were regulations in force under section 62 of that Act.

## **Part 2—Levy amendments**

### ***Hazardous Waste (Regulation of Exports and Imports) Act 1989***

#### **19 After section 32**

Insert:

#### **32A Applications to be accompanied by levy**

- (1) An application under section 12, 13 or 13A must be accompanied by the levy imposed by the *Hazardous Waste (Regulation of Exports and Imports) Levy Act 2017*.

Note: An application under section 12, 13 or 13A must be for a Basel permit or a special permit under a specified set of Article 11 regulations: see section 13B.

- (2) If the application is not accompanied by the levy, the application is taken not to have been received by the Minister until the levy has been paid.

#### **20 Application provision**

The amendment made by this Part applies in relation to applications made on or after the commencement of this Part.

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[*Minister's second reading speech made in—  
House of Representatives on 24 November 2016  
Senate on 8 February 2017*]

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(177/16)

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