

EXPLANATORY STATEMENT

Select Legislative Instrument 2008 No. 231

ISSUED BY AUTHORITY OF THE MINISTER FOR THE ENVIRONMENT, HERITAGE AND THE ARTS

Hazardous Waste (Regulation of Exports and Imports) Act 1989

*Hazardous Waste (Regulation of Exports and Imports) Amendment Regulations
2008 (No. 1)*

Subsection 62(1) of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Act implements Australia's obligations under the Basel Convention, an international treaty set up to control the movement of hazardous waste from one country to another.

Paragraph 18A(2)(a) of the Act states that the Minister may grant a Basel Export Permit authorising the export of hazardous waste destined for final disposal if, at the time of the decision to grant the permit, particulars of the export are specified in the regulations. Specification of these particulars by regulation is a prerequisite to the Minister's decision-making process.

The purpose of the Regulations is to specify the particulars of a proposed export of hazardous waste to Denmark for final disposal. The hazardous waste consists of: hexachlorobenzene and process residue related to hexachlorobenzene; and packaging containers and construction and demolition waste which contain residues of, or are contaminated by, hexachlorobenzene and similar chlorinated hydrocarbons. Hexachlorobenzene is highly toxic. The proposed export is estimated to weigh up to 6,100 tonnes.

The export application will be assessed under the requirements of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*, and will take into account the views of stakeholders. The decision to grant a permit must consider whether there are exceptional circumstances to do so.

The making of these Regulations is also intended to make the process of deciding what are 'exceptional circumstances' totally transparent.

Consultation on the Regulations is not required as the amendments are of a machinery nature and do not substantially alter existing arrangements.

Details of the Regulations are set out in the Attachment.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

ATTACHMENT

***Hazardous Waste (Regulation of Exports and Imports) Amendment Regulations 2008
(No. 1)***

Details of the Regulations are:

Regulation 1 provides that the name of these Regulations is the *Hazardous Waste (Regulation of Exports and Imports) Amendment Regulations 2008 (No. 1)*.

Regulation 2 provides that these Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Regulation 3 provides for Schedule 1 to amend the *Hazardous Waste (Regulation of Exports and Imports) Regulations 1996*.

Schedule 1 inserts a new regulation 5C, which provides particulars of the nature of the hazardous waste proposed for export, present storage arrangements, the quantity, the type of the containers in which the waste will be stored and transported, the port of loading and how the facility overseas will dispose of the waste.