



# **Hazardous Waste (Regulation of Exports and Imports) Legislation Amendment (2017 Measures) Regulations 2017**

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 27 June 2017

Peter Cosgrove  
Governor-General

By His Excellency's Command

Josh Frydenberg  
Minister for the Environment and Energy

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## 1 Name

This instrument is the *Hazardous Waste (Regulation of Exports and Imports) Legislation Amendment (2017 Measures) Regulations 2017*.

## 2 Commencement

- (1) Each provision of this instrument 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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2017.	1 July 2017

Note: This table relates only to the provisions of this instrument as originally made.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

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

## 3 Authority

This instrument is made under the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## **Schedule 1—General amendments**

### ***Hazardous Waste (Regulation of Exports and Imports) (Decision IV/9) Regulations 1999***

#### **1 The whole of the Regulations**

Repeal the Regulations.

### ***Hazardous Waste (Regulation of Exports and Imports) (Imports from East Timor) Regulations 2003***

#### **2 Regulation 5 (note 2)**

Repeal the note, substitute:

Note 2: The Basel 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 After regulation 7**

Insert:

#### **8 Requests for further information**

- (1) This regulation applies to a person if:
  - (a) the person applies for a special import permit, or for a variation of such a permit, under a provision of Part 2 of the Act as applied by regulation 7; and
  - (b) the Minister gives the person a request under section 15 or 28 of the Act, as applied by regulation 7, in relation to the application.
- (2) The person must comply with the request before the later of the following times:
  - (a) the end of 30 days after the request is given;
  - (b) if the Minister, by written notice to the person, allows a longer period—the end of that longer period.
- (3) If the person does not comply with the request before that time, the application is taken to be withdrawn at that time.
- (4) Applications may be made to the Administrative Appeals Tribunal for review of decisions of the Minister under paragraph (2)(b) to refuse to allow a longer period for a request to be complied with.

### ***Hazardous Waste (Regulation of Exports and Imports) (OECD Decision) Regulations 1996***

#### **4 Subparagraph 18(1)(b)(vii)**

Repeal the subparagraph.

#### **5 Paragraph 44(b)**

Repeal the paragraph, substitute:

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

### ***Hazardous Waste (Regulation of Exports and Imports) Regulations 1996***

#### **6 Regulation 5 (note)**

Repeal the note, substitute:

Note: The Basel 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>).

#### **7 Regulation 6 (note)**

Repeal the note, substitute:

Note: The Basel 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>).

#### **8 After regulation 8**

Insert:

#### **9 Requests for further information**

- (1) This regulation applies to a person if:
  - (a) the person makes a permit application or a variation application; and
  - (b) the Minister gives the person a request under section 15 or 28 of the Act in relation to the application.
- (2) The person must comply with the request before the later of the following times:
  - (a) the end of 30 days after the request is given;
  - (b) if the Minister, by written notice to the person, allows a longer period—the end of that longer period.
- (3) If the person does not comply with the request before that time, the application is taken to be withdrawn at that time.
- (4) Applications may be made to the Administrative Appeals Tribunal for review of decisions of the Minister under paragraph (2)(b) to refuse to allow a longer period for a request to be complied with.

#### **9 Schedule 1 (note)**

Omit “The text of the Convention, as it is in force for Australia, is set out in the Schedule to the *Hazardous Wastes (Regulation of Exports and Imports) Act 1989*”, substitute “The Basel 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>)”.

## ***Hazardous Waste (Regulation of Exports and Imports) (Waigani Convention) Regulations 1999***

### **10 Regulation 3 (note 1)**

Omit “The Basel Convention is set out in the Schedule to the Act”, substitute “The Basel 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>)”.

### **11 Regulation 3 (note 2)**

Repeal the note, substitute:

Note 2: The Waigani Convention is in Australian Treaty Series 2001 No. 17 ([2001] ATS 17) and could in 2017 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

### **12 Regulation 4 (definition of *Convention*)**

Omit “, the text of which is set out in Schedule 1”.

### **13 Subregulation 8(1)**

Omit “in the *Gazette*”, substitute “on the Department’s website”.

### **14 After regulation 11**

Insert:

#### **11A Requests for further information**

- (1) This regulation applies to a person if:
  - (a) the person applies for a Waigani import permit, or a variation of such a permit, under a provision of Part 2 of the Act as applied by regulation 10; and
  - (b) the Minister gives the person a request under section 15 or 28 of the Act, as applied by regulation 10, in relation to the application.
- (2) This regulation also applies to a person if:
  - (a) the person applies for a Waigani transit permit, or a variation of such a permit, under a provision of Part 2 of the Act as applied by regulation 11; and
  - (b) the Minister gives the person a request under section 15 or 28 of the Act, as applied by regulation 11, in relation to the application.
- (3) The person must comply with the request before the later of the following times:
  - (a) the end of 30 days after the request is given;
  - (b) if the Minister, by written notice to the person, allows a longer period—the end of that longer period.
- (4) If the person does not comply with the request before that time, the application is taken to be withdrawn at that time.
- (5) Applications may be made to the Administrative Appeals Tribunal for review of decisions of the Minister under paragraph (3)(b) to refuse to allow a longer period for a request to be complied with.



**15 Paragraph 15(a)**

Omit “of the Environment”.

**16 Regulation 15 (note)**

Repeal the note, substitute:

Note: **Department** means the Department administered by the Minister who administers these Regulations (see section 19A of the *Acts Interpretation Act 1901* as it applies because of section 13 of the *Legislation Act 2003*). In 2017, this was the Department of the Environment and Energy.

**17 Schedule 1**

Repeal the Schedule.

## Schedule 2—Amendments relating to fees

### *Hazardous Waste (Regulation of Exports and Imports) (Fees) Regulations 1990*

#### 1 Regulation 2

Insert:

*indexation day* means 1 July 2018 and each later 1 July.

*index number*, for a quarter, means the All Groups Consumer Price Index number that is the weighted average of the 8 capital cities and is published by the Australian Statistician in relation to that quarter.

*March quarter* means a period of 3 months starting on 1 January.

#### 2 Regulation 3

After “are specified in”, insert “clause 1 of”.

#### 3 After regulation 3

Insert:

##### 3A Information fees

- (1) For the purposes of section 32 of the Act, a person who:
  - (a) makes a permit application or a variation application; and
  - (b) is given a request to provide information under section 15 or 28 of the Act in relation to the application; and
  - (c) complies with the request;is liable to pay the Commonwealth a fee specified in clause 2 of Schedule 1.
- (2) For the purposes of section 32 of the Act, a person who:
  - (a) applies for a special import permit, or for a variation of such a permit, under a provision of Part 2 of the Act as applied by the *Hazardous Waste (Regulation of Exports and Imports) (Imports from East Timor) Regulations 2003*; and
  - (b) is given a request to provide information under section 15 or 28 of the Act, as applied by the *Hazardous Waste (Regulation of Exports and Imports) (Imports from East Timor) Regulations 2003*, in relation to the application; and
  - (c) complies with the request;is liable to pay the Commonwealth a fee specified in clause 2 of Schedule 1.
- (3) For the purposes of section 32 of the Act, a person who:
  - (a) applies for a special import permit or a special transit permit, or for a variation of such a permit, under a provision of Part 2 of the Act as applied by the *Hazardous Waste (Regulation of Exports and Imports) (Waigani Convention) Regulations 1999*; and

- 
- (b) is given a request to provide information under section 15 or 28 of the Act, as applied by the *Hazardous Waste (Regulation of Exports and Imports) (Waigani Convention) Regulations 1999*, in relation to the application; and
  - (c) complies with the request;
- is liable to pay the Commonwealth a fee specified in clause 2 of Schedule 1.
- (4) A fee under subregulation (1), (2) or (3):
    - (a) becomes due and payable to the Commonwealth at the time the person complies with the request; and
    - (b) may be recovered as a debt due to the Commonwealth by action in a court of competent jurisdiction.

### 3B Indexation of fees

- (1) This regulation is made for the purposes of subsection 32(7) of the Act.
- (2) If the indexation factor for an indexation day is greater than 1, the amount of a fee specified in clause 1 or 2 of Schedule 1 is, on that day, replaced by the amount worked out using the formula:

$$\frac{\text{Amount of the fee on the day before the indexation day}}{\text{Indexation factor for the indexation day}} \times \text{Indexation factor for the indexation day}$$

- (3) The amount worked out under subregulation (2) is to be rounded to the nearest dollar (rounding 50 cents upwards).

#### *Indexation factor*

- (4) The ***indexation factor*** for an indexation day is the number worked out using the formula:

$$\frac{\text{Index number for the reference March quarter}}{\text{Index number for the base March quarter}}$$

where:

***base March quarter*** means the last March quarter before the reference March quarter.

***reference March quarter*** means the last March quarter before the indexation day.

- (5) The indexation factor is to be worked out to 3 decimal places (rounding up if the fourth decimal place is 5 or more).

#### *Index numbers*

- (6) Subject to subregulation (7), if at any time before or after the commencement of this subregulation:
  - (a) the Australian Statistician has published or publishes an index number in respect of a quarter; and
  - (b) that index number is in substitution for an index number previously published by the Australian Statistician in respect of that quarter;

disregard the publication of the later index number for the purposes of this regulation.

- (7) If, at any time before or after the commencement of this regulation, the Australian Statistician has changed or changes the index reference period for the Consumer Price Index, then, for the purposes of applying this regulation after the change took place or takes place, have regard only to index numbers published in terms of the new index reference period.

#### **4 After regulation 4**

Insert:

#### **5 Application—amendments made by the *Hazardous Waste (Regulation of Exports and Imports) Legislation Amendment (2017 Measures) Regulations 2017***

The amendments made by Schedule 2 to the *Hazardous Waste (Regulation of Exports and Imports) Legislation Amendment (2017 Measures) Regulations 2017* apply in relation to an application for a permit, or for a variation of a permit, made on or after 1 July 2017.

#### **5 Schedule 1 (heading)**

Repeal the heading, substitute:

### **Schedule 1—Prescribed fees**

Note: See regulations 3 and 3A.

#### **6 Clause 1 of Schedule 1**

After “an application for a permit”, insert “, or a variation,”.

#### **7 Clause 1 of Schedule 1 (table item 1, column 2)**

Omit “2 484”, substitute “5,225”.

#### **8 Clause 1 of Schedule 1 (table item 2, column 2)**

Omit “3 726”, substitute “7,088”.

#### **9 Clause 1 of Schedule 1 (table item 3, column 2)**

Omit “7 451”, substitute “12,667”.

#### **10 Clause 1 of Schedule 1 (table item 4, column 2)**

Omit “8 000”, substitute “35,035”.

#### **11 Clause 1 of Schedule 1 (table item 5, column 2)**

Omit “497”, substitute “2,244”.

#### **12 Clause 1 of Schedule 1 (table item 6, column 2)**

Omit “745”, substitute “2,616”.

#### **13 Clause 1 of Schedule 1 (table item 7, column 2)**

Omit “2 980”, substitute “5,970”.

**14 Clause 1 of Schedule 1 (table item 8, column 2)**

Omit “8 000”, substitute “14,913”.

**15 At the end of Schedule 1**

Add:

**2 Other fees**

The prescribed fee for providing information in response to a request referred to in regulation 3A is \$1,498.