



Customs (Prohibited Exports) Amendment (Liquefied Natural Gas) Regulations 2017

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

Peter Dutton
Minister for Immigration and Border Protection

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1 Name

This instrument is the *Customs (Prohibited Exports) Amendment (Liquefied Natural Gas) 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	The day after this instrument is registered.	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Note: This table relates only to the provisions of this instrument as originally made.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 sections 112 and 270 of the *Customs Act 1901*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Customs (Prohibited Exports) Regulations 1958

1 At the end of Part 3

Add:

Division 6—Liquefied natural gas

13GB Definitions

In this Division:

authorised officer means an SES employee in the Resources Department authorised in writing by the Resources Minister for the purposes of this Division.

domestic shortfall year has the meaning given by subregulation 13GE(1).

Energy Minister means the Minister administering the *Australian Energy Market Act 2004*.

Industry Minister means the Minister administering the *Industry Research and Development Act 1986*.

permission means a permission to export liquefied natural gas during a domestic shortfall year.

Resources Department means the Department administered by the Resources Minister.

Resources Minister means the Minister administering the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*.

Trade Minister means the Minister administering the *Australian Trade and Investment Commission Act 1985*.

vary, in relation to conditions of a permission, includes omit or substitute conditions.

13GC Export prohibited during domestic shortfall years

- (1) The exportation from Australia of liquefied natural gas is prohibited during a domestic shortfall year unless:
 - (a) a permission in writing to export the liquefied natural gas has been granted by the Resources Minister or an authorised officer; and
 - (b) the permission is produced to the Collector.

Note: A permission may be granted for a period that is longer than a domestic shortfall year.
- (2) A permission may specify:
 - (a) conditions to be complied with by the holder of the permission; and
 - (b) when the holder must comply with a condition.
- (3) The Resources Minister or an authorised officer may:

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- (a) vary a condition of a permission with the consent of the holder of the permission; or
 - (b) accept the surrender of a permission, including in exchange for granting another permission.
- (4) If the holder of a permission does not comply with a condition of the permission, the Resources Minister may, by writing:
- (a) revoke the permission; or
 - (b) vary one or more conditions of the permission.

13GD Assignment of permissions

- (1) A permission may specify that the permission may be assigned with the written consent of the Resources Minister or an authorised person.
- (2) If the Resources Minister or an authorised person consents to the assignment of a permission, the Minister or authorised person may vary the conditions of the permission.
- (3) The consent and any variations to conditions must be endorsed on or annexed to the permission.

13GE Determining a domestic shortfall year

- (1) A *domestic shortfall year* is a calendar year determined by the Resources Minister by notifiable instrument on or before 1 November in the preceding year.
- (2) The Resources Minister must not determine a domestic shortfall year unless each of the following applies:
 - (a) the Resources Minister has reasonable grounds to believe:
 - (i) that there will not be a sufficient supply of natural gas for Australian consumers during the year unless exports of liquefied natural gas are controlled; and
 - (ii) that exports of liquefied natural gas would contribute to that lack of supply;
 - (b) the Resources Minister has consulted the following Ministers:
 - (i) the Prime Minister;
 - (ii) the Energy Minister;
 - (iii) the Industry Minister;
 - (iv) the Trade Minister;
 - (c) at least 30 days before the determination is made, the Resources Minister notified, by notifiable instrument, his or her intention to consider whether to determine the year as a domestic shortfall year.
- (3) The Resources Minister may revoke a determination of a domestic shortfall year at any time.

13GF Resources Minister may publish guidelines

The Resources Minister may, by notifiable instrument, publish guidelines relevant to the exercise of powers under this Division.

13GG Review of Division

- (1) The Resources Minister must cause a review of the operation of this Division to be undertaken during 2020.
- (2) The review must address the following:
 - (a) the effectiveness and efficiency of this Division in ensuring a sufficient supply of natural gas for Australian consumers with minimum disruption to Australia's liquefied natural gas export industry;
 - (b) the impact of this Division on the competitiveness of Australia's liquefied natural gas export industry, Australia's investment reputation and Australia's international reputation for quality and reliability;
 - (c) the impact of this Division on the Australian domestic gas market, including the development of new and additional gas resources and market functions;
 - (d) whether improvements can be made to the operation of this Division and whether there are appropriate alternative mechanisms to achieve the objectives of this Division;
 - (e) whether this Division should be amended or repealed before 1 January 2023 and the timing of any such amendment or repeal;
 - (f) any other considerations the Resources Minister considers relevant.
- (3) Subregulation (2) does not limit the matters that may be addressed by the review.
- (4) In conducting the review, the legitimate interests of all relevant stakeholders must be taken into account.

13GH Repeal of Division

This Division is repealed on 1 January 2023.