



Recycling and Waste Reduction (Mandatory Product Stewardship—Mercury-added Products) Rules 2021

I, Sussan Ley, Minister for the Environment, make the following rules.

Dated 23 September 2021

Sussan Ley
Minister for the Environment

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Part 1—Preliminary

1 Name

This instrument is the *Recycling and Waste Reduction (Mandatory Product Stewardship—Mercury-added Products) Rules 2021*.

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	<p>The later of:</p> <p>(a) the day after this instrument is registered; and</p> <p>(b) the day the Minamata Convention on Mercury, done at Minamata on 10 October 2013, comes into force for Australia.</p> <p>However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.</p> <p>The Minister must announce, by notifiable instrument, the day the Convention comes into force for Australia.</p>	<p>7 March 2022</p> <p>(F2022N00032)</p> <p>(paragraph (b) applies)</p>

Note: This table relates only to the provisions of this instrument as originally made.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 *Recycling and Waste Reduction Act 2020*.

4 Definitions

In this instrument:

Act means the *Recycling and Waste Reduction Act 2020*.

assembled product has the same meaning as in the Minamata Convention.

mercury-added products means the products listed in Part 1 of Annex A to the Minamata Convention that contain mercury, but does not include:

Section 4

- (a) products essential for civil protection and military uses; or
- (b) products for research, calibration of instrumentation, or for use as reference standards; or
- (c) if no feasible mercury-free alternative for replacement is available—the following:
 - (i) switches and relays;
 - (ii) cold cathode fluorescent lamps and external electrode fluorescent lamps for electronic displays;
 - (iii) measuring devices; or
- (d) products used in traditional or religious practices; or
- (e) vaccines containing thiomersal as preservatives.

Minamata Convention means the Minamata Convention on Mercury done at Minamata on 10 October 2013, as in force for Australia from time to time.

Note: The Convention could in 2021 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

Part 2—Prohibition on manufacture, import and export of mercury-added products and incorporation of mercury-added products

5 Constitutional connection

- (1) This instrument is made for the purposes of Part 5 of Chapter 3 of the Act and is made in accordance with paragraph 94(1)(c) of the Act.
- (2) The Minamata Convention is identified as the agreement referred to in paragraph 94(1)(c) of the Act.

6 Absolute prohibition on manufacture, import and export of mercury-added products

- (1) For the purposes of subsection 92(1) of the Act, a person must not:
 - (a) manufacture a mercury-added product in Australia; or
 - (b) import a mercury-added product into Australia; or
 - (c) export a mercury-added product.
- (2) Subsection (1) does not apply to the extent that the manufacture, import or export is prohibited under:
 - (a) the *Agricultural and Veterinary Chemicals (Administration) Regulations 1995*; or
 - (b) the *Therapeutic Goods Regulations 1990*.
- (3) Subsection (1) does not apply to the import of mercury-added products that are covered by an exemption that is:
 - (a) registered for Australia under Article 6 of the Minamata Convention; and
 - (b) in effect.

7 Absolute prohibition on incorporation of mercury-added products into assembled products

- (1) For the purposes of subsection 92(1) of the Act, a person must not incorporate a mercury-added product into an assembled product.
- (2) Subsection (1) does not apply to the extent that the incorporation is prohibited under the *Therapeutic Goods Regulations 1990*.