

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

Note: This table relates only to the provisions of this instrument as originally made.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:

 (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*.