



# **Hazardous Waste (Regulation of Exports and Imports) Act 1989**

**Act No. 6 of 1990 as amended**

This compilation was prepared on 19 April 2011  
taking into account amendments up to Act No. 5 of 2011

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

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# **An Act to provide for the regulation of the export, import and transit of hazardous waste, and for related purposes**

## **Part 1—Preliminary**

### **Division 1—Introductory**

#### **1 Short title** *[see Note 1]*

This Act may be cited as the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*.

#### **2 Commencement** *[see Note 1]*

- (1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.
- (2) If this Act does not commence under subsection (1) within the period of 6 months beginning on the day on which it receives the Royal Assent, it commences on the first day after the end of that period.

#### **3 Object and aims**

##### *Object*

- (1) The object of this Act is to regulate the export, import and transit of hazardous waste to ensure that exported, imported or transited waste is managed in an environmentally sound manner so that human beings and the environment, both within and outside Australia, are protected from the harmful effects of the waste.

##### *Aims*

- (2) The aims of this Act are:
  - (a) to give effect to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal; and

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- (b) to give effect to agreements and arrangements of the kind mentioned in Article 11 of that Convention.



## **Division 2—Interpretation**

### **4 Interpretation—defined terms**

In this Act, unless the contrary intention appears:

*Antarctica* means the area south of 60° South Latitude, including all ice shelves in that area.

*application day*, in relation to a permit application or variation application, means:

- (a) the day on which the Minister receives the application; or
- (b) if the Minister gives the applicant a notice under section 15 or 28 in relation to the application—the day on which the notice is complied with.

*Article 11 arrangement* has the meaning given by section 4C.

*Australia* includes the external Territories.

*Australian aircraft* means an aircraft:

- (a) that is owned or operated by:
  - (i) the Commonwealth or a State or Territory; or
  - (ii) an authority of the Commonwealth or a State or Territory; or
- (b) that is registered, or required to be registered, in Australia.

*Australian platform* means a platform:

- (a) that is fixed to:
  - (i) the seabed or subsoil beneath Australian waters; or
  - (ii) the continental shelf of Australia; or
- (b) that is otherwise operating in:
  - (i) Australian waters; or
  - (ii) a part of the sea above the continental shelf of Australia.

*Australian vessel* means a vessel:

- (a) that is owned or operated by:
  - (i) the Commonwealth or a State or Territory; or
  - (ii) an authority of the Commonwealth or a State or Territory; or

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(b) that is registered, or required to be registered, in Australia.

**Australian waters** means:

- (a) the territorial sea of Australia; and
- (b) the sea on the landward side of the territorial sea of Australia and not within the limits of a State or Territory.

**Basel Convention** means the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (a copy of the English text of which is set out in the Schedule).

**Basel export permit** means a permit under section 17 permitting the export of hazardous waste.

**Basel import permit** means a permit under section 17 permitting the import of hazardous waste.

**Basel permit** means:

- (a) a Basel export permit; or
- (b) a Basel import permit; or
- (c) a Basel transit permit.

**Basel transit permit** means a permit under section 17A permitting the carrying out of one or more transit proposals relating to hazardous waste.

**competent authority**, in relation to a foreign country, means:

- (a) if the country is a party to the Basel Convention—the competent authority of the country within the meaning of the Basel Convention; and
- (b) otherwise—a person or organisation that officially represents the country.

Note: The operation of this definition is modified in relation to colonies etc. by section 4D.

**Court** means the Federal Court of Australia.

**deal with**, in relation to hazardous waste, includes dispose of.

**disposal** means an operation specified in Annex IV to the Basel Convention.

***environmentally sound management***, in relation to hazardous waste, has the meaning given by section 4E.

***export*** means export from Australia.

***export permit*** means:

- (a) a Basel export permit; or
- (b) a special export permit.

***export proposal*** means a proposal to export hazardous waste and to deal with it outside Australia.

***foreign country*** includes:

- (a) a colony, overseas territory, overseas province or protectorate of a foreign country; and
- (b) a territory outside Australia, where a foreign country is to any extent responsible for the international relations of the territory; and
- (c) a territory outside Australia that is to some extent self-governing, but that is not recognised as an independent sovereign state by Australia.

***hazardous waste*** means:

- (a) waste prescribed by the regulations, where the waste has any of the characteristics mentioned in Annex III to the Basel Convention; or
  - (b) wastes covered by paragraph 1(a) of Article 1 of the Basel Convention; or
  - (c) household waste; or
  - (d) residues arising from the incineration of household waste;
- but does not include wastes covered by paragraph 4 of Article 1 of the Basel Convention.

Note 1: Section 4A provides for an extended meaning of ***hazardous waste***. The extended meaning relates to the following matters:

- (a) a case where a foreign country has classified a particular substance or object as hazardous waste;
- (b) a case where a foreign country has classified waste collected from households as hazardous waste.

Note 2: Section 4F provides for an extended meaning of ***hazardous waste***. The extended meaning relates to substances or objects subject to notification or control under Article 11 arrangements.

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Note 3: Section 4G provides for exclusions from the definition of *hazardous waste*. The exclusions relate to substances or objects not subject to notification or control under Article 11 arrangements.

Note 4: Before regulations are made for the purposes of paragraph (a) of the definition of *hazardous waste*, the Minister must consult the Hazardous Waste Technical Group: see section 58D.

***Hazardous Waste Technical Group*** means the Hazardous Waste Technical Group established under section 58E.

***holder***, in relation to a Basel permit or a special permit, means the person to whom the permit was granted.

***household waste*** means waste collected from households, but does not include waste specified in the regulations.

***identity card*** means an identity card issued under section 43.

***import*** means import into Australia.

***import permit*** means:

- (a) a Basel import permit; or
- (b) a special import permit.

***import proposal*** means a proposal to import hazardous waste and to deal with it in Australia.

***inspector*** means a person appointed under section 42 as an inspector.

***offence against a provision of Part 4*** has the extended meaning given by paragraph 8(b).

***offence against this Act*** has the extended meaning given by paragraph 8(a).

***officer of Customs*** has the same meaning as in the *Customs Act 1901*.

***original export proposal***, in relation to a variation application relating to a Basel export permit, means an export proposal in relation to which the permit was granted, as affected by any variation of the permit that has already been made.

***original import proposal***, in relation to a variation application relating to a Basel import permit, means an import proposal in

relation to which the permit was granted, as affected by any variation of the permit that has already been made.

***original transit proposal***, in relation to a variation application relating to a Basel transit permit, means a transit proposal in relation to which the permit was granted, as affected by any variation of the permit that has already been made.

***permit application*** means an application for a Basel permit.

***permit condition*** means a condition specified in:

- (a) a Basel permit under section 22; or
- (b) a notice under section 26 varying a Basel permit; or
- (c) a special permit; or
- (d) a notice under a set of Article 11 regulations varying a special permit.

***platform*** includes any structure at sea (whether or not fixed), but does not include a vessel.

***premises*** includes any place (whether or not enclosed or built on).

***relevant authority***, in relation to a searchable place, means:

- (a) in the case of premises in Australia—the occupier of the premises; and
- (b) in any other case—the person in command or control, or who appears to be in command or control, of the place.

***searchable place*** means:

- (a) premises in Australia; or
- (b) an aircraft, vehicle or vessel within Australian jurisdiction; or
- (c) an Australian aircraft; or
- (d) an Australian platform; or
- (e) an Australian vessel.

***set of Article 11 regulations*** has the meaning given by section 13C.

***special export permit*** means a permit under a set of Article 11 regulations permitting the export of hazardous waste.

***special import permit*** means a permit under a set of Article 11 regulations permitting the import of hazardous waste.

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***special permit*** means:

- (a) a special export permit; or
- (b) a special import permit; or
- (c) a special transit permit.

***special transit permit*** means a permit under a set of Article 11 regulations permitting the carrying out of one or more transit proposals relating to hazardous waste.

***this Act*** includes the regulations.

***transit permit*** means:

- (a) a Basel transit permit; or
- (b) a special transit permit.

***transit proposal*** has the meaning given by section 4B.

***variation***, in relation to a Basel permit, includes a variation of the permit conditions imposed on the permit.

***variation application*** means an application under section 27 for the variation of a Basel permit.

***varied export proposal***, in relation to a variation application relating to a Basel export permit, means the original export proposal, as proposed to be affected by the proposed variation.

***varied import proposal***, in relation to a variation application relating to a Basel import permit, means the original import proposal, as proposed to be affected by the proposed variation.

***varied transit proposal***, in relation to a variation application relating to a Basel transit permit, means the original transit proposal, as proposed to be affected by the proposed variation.

***vessel*** means anything capable of carrying persons or goods through or on water, and includes an air-cushion vehicle or similar craft.

***waste*** means a substance or object that:

- (a) is proposed to be disposed of; or
- (b) is disposed of; or
- (c) is required by a law of the Commonwealth, a State or a Territory to be disposed of.

Note: *Disposed of* has a meaning corresponding to the meaning of *disposal*.  
See the definition of *disposal*.

*within Australian jurisdiction* means within or over Australia or Australian waters.

#### **4A Exports and transits to foreign countries—extended meaning of *hazardous waste***

*When this section has effect*

- (1) This section has effect for the purposes of the application of this Act:
  - (a) to the export or proposed export of a substance or object to a particular foreign country; or
  - (b) to, or to the carrying out of, a transit proposal that involves the export of a substance or object to a particular foreign country.

*Declaration extending the meaning of **hazardous waste**—classification under foreign laws*

- (2) If:
  - (a) the foreign country is a party to the Basel Convention; and
  - (b) the Minister is satisfied that, under a law of that country that gives effect to the Basel Convention, a particular substance or object is, in particular circumstances, classified as hazardous waste; and
  - (c) apart from this section, the waste is not hazardous waste; the Minister must, by writing, declare that that substance or object is, in those circumstances, hazardous waste for those purposes.

*Declaration extending the meaning of **hazardous waste**—waste collected from households*

- (3) If:
  - (a) the Minister is satisfied that the foreign country classifies particular waste collected from households as hazardous waste; and
  - (b) apart from this section, the waste is not hazardous waste; the Minister must, by writing, declare that that waste is hazardous waste for those purposes.

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*Declaration has effect accordingly*

- (4) A declaration under this section has effect accordingly.

*Revocation of subsection (2) declaration*

- (5) If:
- (a) a declaration is in force under subsection (2); and
  - (b) the Minister ceases to be satisfied of the matter referred to in paragraph (2)(b);
- the Minister must revoke the declaration.

*Revocation of subsection (3) declaration*

- (6) If:
- (a) a declaration is in force under subsection (3); and
  - (b) the Minister ceases to be satisfied of the matter referred to in paragraph (3)(a);
- the Minister must revoke the declaration.

*Gazettal of declaration*

- (7) If a declaration under this section is made or revoked, the Minister must arrange for a copy of the declaration or revocation to be published in the *Gazette*.

## **4B Transit proposals**

- (1) This section sets out the proposals that are *transit proposals* for the purposes of this Act.

Note: For the purposes of this section, *Australia* does not include Australian waters.

*Transit proposal*

- (2) A proposal:
- (a) to bring hazardous waste into Australia (whether or not by way of import); and
  - (b) to take the waste out of Australia within 30 days;
- is a *transit proposal* so long as it is not proposed to dispose of the waste in Australia.



*Extension of time for carrying out proposal*

- (3) If the Minister is satisfied that there are special circumstances relating to a particular proposal, the Minister may, by writing, declare that subsection (2) applies to the proposal as if a reference in that subsection to 30 days were a reference to such longer period as is specified in the declaration.

*Declaration has effect accordingly*

- (4) The declaration has effect accordingly.

*Notification of decision*

- (5) If the Minister decides to make, or not to make, a declaration under this section about a person's proposal, the Minister must give the person a written notification of the decision.

*Gazettal of declaration*

- (6) If the Minister makes a declaration under this section, the Minister must arrange for a copy of the declaration to be published in the *Gazette*.

*Deemed export*

- (7) For the purposes of this Act, if hazardous waste is taken out of Australia in the course of carrying out a transit proposal, the taking of the waste out of Australia is to be treated as the export of the waste.

*Definitions*

- (8) In this section:

*dispose of* does not include store.

*take waste out of Australia* means take waste out of Australia for the purpose of importing the waste into a foreign country (whether or not the waste will be transported through any other foreign countries).

#### **4C Article 11 arrangements**

*Declaration of Article 11 arrangement*

- (1) If:
- (a) Australia has entered into an agreement or arrangement; and
  - (b) the Minister is satisfied that the agreement or arrangement is of a kind mentioned in Article 11 of the Basel Convention;
- the Minister must, by writing, declare that the agreement or arrangement is an *Article 11 arrangement* for the purposes of this Act.

*Declaration has effect accordingly*

- (2) A declaration under this section has effect accordingly.

*Revocation of declaration*

- (3) If:
- (a) a declaration is in force under this section; and
  - (b) the Minister ceases to be satisfied of the matter referred to in paragraph (1)(b);
- the Minister must revoke the declaration.

*Gazettal of declaration*

- (4) If a declaration under this section is made or revoked, the Minister must arrange for a copy of the declaration or revocation to be published in the *Gazette*.

#### **4D Treatment of colonies etc.**

*When colony etc. is a party to the Basel Convention*

- (1) For the purposes of this Act, if:
- (a) a territory is covered by either of the following subparagraphs:
    - (i) a colony, overseas territory, overseas province or protectorate of a foreign country;
    - (ii) a territory outside Australia, where a foreign country is to any extent responsible for the international relations of the territory; and

- (b) the foreign country is a party to the Basel Convention; and
  - (c) the territory is not specified in the regulations;
- the territory is taken to be a party to the Basel Convention.

*Competent authority of colony etc.*

- (2) For the purposes of this Act, if a territory is covered by any of the following paragraphs:
  - (a) a colony, overseas territory, overseas province or protectorate of a foreign country; or
  - (b) a territory outside Australia, where a foreign country is to any extent responsible for the international relations of the territory; or
  - (c) a territory outside Australia that is to some extent self-governing, but that is not recognised as an independent sovereign state by Australia;a person or organisation that officially represents the territory is taken to be a competent authority of the territory.

*Subsection (2) has effect despite the definition of **competent authority***

- (3) Subsection (2) has effect despite anything in the definition of **competent authority** in section 4.

#### **4E Environmentally sound management of hazardous waste**

A reference in this Act to the *environmentally sound management* of hazardous waste is a reference to taking all practicable steps to ensure that the waste is managed in a manner that will protect human health, and the environment, against the adverse effects that may result from the waste.

#### **4F Article 11 arrangements—substances taken to be hazardous waste**

- (1) This section has effect for the purposes of the application of this Act:
  - (a) to the import or proposed import of a substance or object from a particular foreign country; or

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- (b) to the export or proposed export of a substance or object to a particular foreign country; or
  - (c) to, or to the carrying out of, a transit proposal that involves the export of a substance or object to a particular foreign country.
- (2) If:
- (a) the country is a party to an Article 11 arrangement; and
  - (b) the substance or object is subject to notification or control under the arrangement; and
  - (c) apart from this section, the substance or object is not hazardous waste;
- the substance or object is taken to be hazardous waste for those purposes.

**4G Article 11 arrangements—substances not classified as hazardous waste**

- (1) This section has effect for the purposes of the application of this Act:
- (a) to the import or proposed import of a substance or object from a particular foreign country; or
  - (b) to the export or proposed export of a substance or object to a particular foreign country; or
  - (c) to, or to the carrying out of, a transit proposal that involves the export of a substance or object to a particular foreign country.
- (2) If:
- (a) the country is a party to an Article 11 arrangement; and
  - (b) the arrangement expressly provides that the substance or object is not subject to notification or control under the arrangement;
- the substance or object is taken not to be hazardous waste for those purposes.

**7 Failure to comply with permit condition when required is breach of condition**

- (1) For the purposes of this Act, if:

- (a) under subsection 22(2) or 26(2), the Minister specifies the day on or before which a permit condition relating to a Basel permit is to be complied with; and
  - (b) the condition is not complied with on or before that day; the holder of the permit is to be taken to have breached the condition at the end of that day.
- (2) For the purposes of this Act, if:
- (a) under a set of Article 11 regulations, the Minister specifies the day on or before which a permit condition relating to a special permit is to be complied with; and
  - (b) the condition is not complied with on or before that day; the holder of the permit is taken to have breached that condition at the end of that day.

## **8 Reference to offence against Act etc. includes reference to offence against certain provisions of Crimes Act**

In this Act:

- (a) a reference to an offence against this Act includes a reference to an offence against section 6 of the *Crimes Act 1914*, or section 11.1, 11.4 or 11.5 of the *Criminal Code*, that relates to an offence against this Act; and
- (b) a reference to an offence against a provision of Part 4 includes a reference to an offence against section 6 of the *Crimes Act 1914*, or section 11.1, 11.4 or 11.5 of the *Criminal Code*, that relates to an offence against that provision.

## Division 3—Operation of Act

### 9 Extension of Act to external Territories

This Act extends to every external Territory.

### 10 Act binds Crown

This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island.

### 10A Application of the *Criminal Code*

Chapter 2 (other than Part 2.5) of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

### 11 Relationship between Act and other Commonwealth laws

This Act is in addition to, and not in derogation of or substitution for, the *Customs Act 1901*, the *Environment Protection and Biodiversity Conservation Act 1999* or any other law of the Commonwealth, whether enacted before or after the commencement of this Act.

## **Part 2—Import permits, export permits and transit permits**

### **Division 1—Applications for permits**

#### **12 Applications for import permits**

- (1) A person who has one or more import proposals in relation to hazardous waste may apply to the Minister for a permit authorising the import of the waste.
- (2) The application must:
  - (a) be in the form approved by the Minister; and
  - (b) set out, or be accompanied by, such information relating to the proposals as is required by the form.
- (3) The application may deal with 2 or more import proposals in relation to hazardous waste only if:
  - (a) the following matters are common to each proposal:
    - (i) the physical and chemical characteristics of the waste;
    - (ii) the route over which the waste is to be transported;
    - (iii) the sender of the waste; and
  - (b) the proposals constitute a regular pattern; and
  - (c) the proposals will all be carried out within 12 months of each other.

#### **13 Applications for export permits**

- (1) A person who has one or more export proposals in relation to hazardous waste may apply to the Minister for a permit authorising the export of the waste.
  - (2) The application must:
    - (a) be in the form approved by the Minister; and
    - (b) set out, or be accompanied by, such information relating to the proposals as is required by the form.
  - (3) The application may deal with 2 or more export proposals in relation to hazardous waste only if:
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- (a) the following matters are common to each proposal:
  - (i) the physical and chemical characteristics of the waste;
  - (ii) the route over which the waste is to be transported;
  - (iii) the recipient of the waste; and
- (b) the proposals constitute a regular pattern; and
- (c) the proposals will all be carried out within 12 months of each other.

**13A Applications for transit permits**

- (1) A person who has one or more transit proposals in relation to hazardous waste may apply to the Minister for a permit to carry out the proposals.
- (2) The application must:
  - (a) be in the form approved by the Minister; and
  - (b) set out, or be accompanied by, such information relating to the proposals as is required by the form.
- (3) The application may deal with 2 or more transit proposals in relation to hazardous waste only if:
  - (a) the following matters are common to each proposal:
    - (i) the physical and chemical characteristics of the waste;
    - (ii) the route over which the waste is to be transported;
    - (iii) the sender and recipient of the waste; and
  - (b) the proposals constitute a regular pattern; and
  - (c) the proposals will all be carried out within 12 months of each other.

**13B Basel permit or special permit**

*Statement in application*

- (1) An application under section 12, 13 or 13A must state that the applicant is applying for:
  - (a) a Basel permit; or
  - (b) a special permit under a specified set of Article 11 regulations;but not both.



Note 1: If the applicant has applied for a Basel permit, the application is to be dealt with in accordance with Division 3.

Note 2: If the applicant has applied for a special permit under a particular set of Article 11 regulations, the application is to be dealt with in accordance with that set of regulations.

*Application specifying Basel permit—adjustment of application*

- (2) If:
- (a) an application under section 12, 13 or 13A states that the applicant is applying for a Basel permit; and
  - (b) the Minister is satisfied that there are special circumstances relating to the application;
- the Minister may, by writing, determine that this Act has effect as if the applicant had applied instead for the corresponding type of special permit under a set of Article 11 regulations specified in the determination.

*Application specifying special permit—adjustment of application*

- (3) If:
- (a) an application under section 12, 13 or 13A states that the applicant is applying for a special permit under a particular set of Article 11 regulations; and
  - (b) the Minister is satisfied that there are special circumstances relating to the application;
- the Minister may, by writing:
- (c) determine that this Act has effect as if the applicant had applied instead for the corresponding type of Basel permit; or
  - (d) determine that this Act has effect as if the applicant had applied instead for the corresponding type of special permit under another set of Article 11 regulations specified in the determination.

*Determination has effect accordingly*

- (4) A determination under this section has effect accordingly.

*Applicant to be given copy of determination*

- (5) As soon as practicable after the Minister makes a determination under this section, the Minister must give the applicant a copy of the determination.

## **Division 2—Special permits under a set of Article 11 regulations**

### **13C Regulations may give effect to Article 11 arrangements**

- (1) The regulations may provide for and in relation to:
  - (a) giving effect to an Article 11 arrangement; and
  - (b) giving effect to an amendment of an Article 11 arrangement.
- (2) Regulations made for the purposes of this section may be expressed to take effect on the day the arrangement or amendment enters into force, or comes into effect, for Australia (but must not be expressed to take effect before then).
- (2A) As soon as practicable after the arrangement or amendment enters into force, or comes into effect, for Australia, the Minister must publish a notice in the *Gazette* giving details of that fact.
- (3) Regulations made for the purposes of this section that give effect to a particular Article 11 arrangement (including regulations that give effect to an amendment of the Article 11 arrangement) are to be known as a *set of Article 11 regulations*.

### **13D Contents of a set of Article 11 regulations**

- (1) Each set of Article 11 regulations may:
  - (a) specify the kinds of import proposals, export proposals and transit proposals that are within the scope of that set of regulations; and
  - (b) provide for the granting of permits by the Minister authorising the import of hazardous waste, where the permit relates to an import proposal within the scope of that set of regulations; and
  - (c) provide for the granting of permits by the Minister authorising the export of hazardous waste, where the permit relates to an export proposal within the scope of that set of regulations; and
  - (d) provide for the granting of permits by the Minister authorising the carrying out of transit proposals within the scope of that set of regulations.

Note 1: A permit covered by paragraph (1)(b) is known as a *special import permit*—see the definition in section 4.

Note 2: A permit covered by paragraph (1)(c) is known as a *special export permit*—see the definition in section 4.

Note 3: A permit covered by paragraph (1)(d) is known as a *special transit permit*—see the definition in section 4.

- (2) A set of Article 11 regulations may provide for:
  - (a) conditions of special permits; and
  - (b) the revocation, surrender and variation of special permits.
- (3) This section does not, by implication, limit section 13C.

### **13E Special permit may be granted under a set of Article 11 regulations only if corresponding requirements of other sets of Article 11 regulations have been met**

#### *Import*

- (1) If:
  - (a) a person applies for a special import permit in relation to an import proposal that is within the scope of a particular set of Article 11 regulations; and
  - (b) the proposal is within the scope of another set of Article 11 regulations;the Minister must not grant the permit unless the Minister is satisfied that the corresponding requirements of the other set of regulations have been met in relation to the proposal. For this purpose, a *corresponding requirement* of a particular set of Article 11 regulations is a requirement under that set of regulations:
  - (c) that must be met before granting a special import permit under that set of regulations; and
  - (d) that is declared by the regulations to be a corresponding requirement for the purposes of this subsection.
- (2) Subsection (1) does not prevent the set of Article 11 regulations mentioned in paragraph (1)(a) from setting out other requirements that must be met before granting a special import permit under that set of regulations.

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*Export*

- (3) If:
- (a) a person applies for a special export permit in relation to an export proposal that is within the scope of a particular set of Article 11 regulations; and
  - (b) the proposal is within the scope of another set of Article 11 regulations;
- the Minister must not grant the permit unless the Minister is satisfied that the corresponding requirements of the other set of regulations have been met in relation to the proposal. For this purpose, a *corresponding requirement* of a particular set of Article 11 regulations is:
- (c) a requirement under that set of regulations to obtain the consent (whether actual or constructive) of an authority of a foreign country before granting a special export permit under that set of regulations authorising the export of hazardous waste to that country; or
  - (d) another requirement under that set of regulations:
    - (i) that must be met before granting a special export permit under that set of regulations; and
    - (ii) that is declared by the regulations to be a corresponding requirement for the purposes of this subsection.
- (4) Subsection (3) does not prevent the set of Article 11 regulations mentioned in paragraph (3)(a) from setting out other requirements that must be met before granting a special export permit under that set of regulations.

*Transit*

- (5) If:
- (a) a person applies for a special transit permit in relation to a transit proposal that is within the scope of a particular set of Article 11 regulations; and
  - (b) the proposal is within the scope of another set of Article 11 regulations;
- the Minister must not grant the permit unless the Minister is satisfied that the corresponding requirements of the other set of regulations have been met in relation to the proposal. For this

purpose, a *corresponding requirement* of a particular set of Article 11 regulations is:

- (c) a requirement under that set of regulations to obtain the consent (whether actual or constructive) of an authority of a foreign country before granting a special transit permit under that set of regulations authorising the carrying out of a transit proposal that involves the export of hazardous waste to that country; or
  - (d) another requirement under that set of regulations:
    - (i) that must be met before granting a special transit permit under that set of regulations; and
    - (ii) that is declared by the regulations to be a corresponding requirement for the purposes of this subsection.
- (6) Subsection (5) does not prevent the set of Article 11 regulations mentioned in paragraph (5)(a) from setting out other requirements that must be met before granting a special transit permit under that set of regulations.

### **13F Special permit—waste not to be brought into Antarctica**

The Minister must not grant a special permit if the Minister is satisfied that the grant could result in hazardous waste being brought into Antarctica.

## **Division 3—Grant of Basel permits**

### **14 Variation of applications for Basel permits**

- (1) An applicant for a Basel permit may, at any time before the Minister has decided whether to grant the permit, give the Minister a notice stating that the permit application is varied as set out in the notice.
- (2) The notice must:
  - (a) be in the form approved by the Minister; and
  - (b) set out, or be accompanied by, such information relating to the variation as is required by the form.
- (3) If the Minister receives a notice under subsection (1) from the applicant:
  - (a) the application is to be taken to have been varied in accordance with the notice; and
  - (b) the application, as varied, is to be taken to have been received by the Minister on the day on which the Minister received the notice.

### **15 Further information may be requested**

- (1) If the Minister needs further information to deal with a permit application, the Minister may ask the applicant to provide the information in writing.
- (2) The request must be made by written notice given to the applicant not later than 60 days after the Minister receives the application.

### **15A Acknowledgment and notification**

- (1) Within 7 days after receiving an application for a Basel permit, the Minister must give the applicant a written acknowledgment of the receipt.
- (2) Within 7 days after receiving an application for a Basel import permit authorising the import of hazardous waste from a foreign country, the Minister must give the competent authority of the country a written notification of the receipt.

- (3) Within 21 days after receiving an application for a Basel permit authorising the export of hazardous waste to a foreign country, the Minister must give the competent authority of the country such information about the application as is specified in the regulations.

### **16 Time within which applications for Basel permits are to be decided**

- (1) Subject to this section, where the Minister receives a permit application, the Minister must decide whether to grant the Basel permit within 60 days after the application day.
- (2) If:
- (a) the application is for a Basel export permit authorising the export of hazardous waste to a particular foreign country (the *receiving country*); and
  - (b) 46 days pass after the application day and, by the end of that period:
    - (i) the competent authority of the receiving country has neither given nor refused written consent to the grant of the permit; or
    - (ii) if it is proposed that the hazardous waste will be transported through one or more other foreign countries (the *transit countries*)—the competent authorities of the transit countries have neither given nor refused written consent to the grant of the permit;
- the period within which the decision is to be made is extended until whichever of the following comes first:
- (c) whichever of the following is applicable:
    - (i) the 14th day after the Ministerial receipt day;
    - (ii) if the Minister determines a later day that occurs on or before the 60th day after the Ministerial receipt day—that later day;
  - (d) 12 months after the application day.
- (2A) For the purposes of subsection (2), the *Ministerial receipt day* is whichever of the following applies:
- (a) if there is only one consent/refusal—the day on which the Minister receives that consent/refusal;
  - (b) if there are 2 or more consents/refusals and the Minister receives them on the same day—that day;

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- (c) if there are 2 or more consents/refusals and the Minister receives them on different days—the last of those days.
- (3) If a foreign country is a party to the Basel Convention, a reference in subsection (2) to a consent given by the competent authority of the country is a reference to a consent given in accordance with Article 6 of the Basel Convention.
- (4) If:
- (a) the application is for a Basel import permit or a Basel transit permit; and
  - (b) the Minister thinks that it will take more than 60 days to decide whether to grant the permit;
- the Minister may extend the period within which that decision is to be made by up to 60 days.
- (4A) As soon as practicable after the Minister makes a determination under subparagraph (2)(c)(ii), the Minister must give the applicant a written notification of the determination.
- (4B) As soon as practicable after the Minister makes a decision under subsection (4), the Minister must give the applicant a written notification of the decision.
- (4C) As soon as practicable after the Minister makes a decision under subsection (4) in relation to a permit authorising the import of hazardous waste from a particular foreign country, the Minister must give the competent authority of the country a written notification of the decision.
- (4D) If a period is extended under subsection (2) or (4), the Minister must decide whether to grant the permit concerned within the extended period. However, this rule has effect subject to subsections (5), (7) and (8).
- (5) If, within the period specified in subsection (1) (or that period as extended under subsection (2) or (4)), the proposal to grant the Basel permit is referred under Subdivision A of Division 4 of Part 11 of the *Environment Protection and Biodiversity Conservation Act 1999*, the Minister must either grant or refuse to grant the permit within 30 days after he or she receives advice under that Subdivision on the proposed grant.



Note: Under Subdivision A of Division 4 of Part 11 of the *Environment Protection and Biodiversity Conservation Act 1999*, persons considering whether to authorise certain actions must get advice on environmental matters from the Minister administering that Subdivision.

- (6) The applicant may, by writing and before the end of the period of 30 days referred to in subsection (5), agree to extend the period.
- (7) If the applicant agrees to extend the period under subsection (6), the Minister must decide whether to grant the permit within the extended period.
- (8) If the Minister has not decided whether to grant the permit:
  - (a) the Minister and the applicant may, by writing and before the end of the period provided for by subsections (1) to (7), agree to extend the period; and
  - (b) the Minister must decide whether to grant the permit within the extended period.
- (9) If the Minister has not decided whether to grant the permit by the end of the day by which the Minister is required by this section to have made the decision, the Minister is to be taken to have decided, at the end of that day, not to grant the permit.

### **17 Grant of Basel import permits and Basel export permits**

- (1A) This section applies if the permit sought by a permit application is a Basel import permit or a Basel export permit.
- (1) Subject to this Division, the Minister must grant the permit sought by a permit application if the Minister is satisfied:
  - (a) that dealing with the hazardous waste concerned in accordance with the import proposals or export proposals would be consistent with the environmentally sound management of the hazardous waste; and
  - (b) if the permit sought is a Basel export permit authorising the export of hazardous waste to a particular foreign country:
    - (i) that the competent authority of the country has given written consent to the grant of the permit; and
    - (ii) that the consent was given in accordance with Article 6 of the Basel Convention; and

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- (ba) if the permit sought is a Basel export permit—that the hazardous waste will be allowed to be transported through any foreign country through which the waste is proposed to be transported; and
- (c) that, having regard to:
  - (i) the applicant’s financial viability; and
  - (ii) the applicant’s previous record in relation to environmental matters; and
  - (iii) any other relevant matters;the applicant is a suitable person to be granted a Basel permit; and
- (d) that the applicant has appropriate insurance.

Note: Section 18 specifies circumstances in which the applicant has appropriate insurance.

- (2) Even if the Minister is satisfied as mentioned in subsection (1), the Minister may decide under subsection (2A), (3), (4) or (5) not to grant the permit.
- (2A) The Minister may decide not to grant the permit if:
  - (a) the permit sought is a Basel export permit; and
  - (b) having regard to the requirements of paragraph 3(b) of Article 6 of the Basel Convention, the Minister thinks that it would not be appropriate to grant the permit.
- (3) The Minister may decide not to grant the permit if the Minister thinks that it would not be in the public interest to grant the permit.
- (4) The Minister may decide not to grant the permit if the Minister thinks that:
  - (a) there is another way in which the hazardous waste could be dealt with; and
  - (b) dealing with the waste in the other way would not pose a significant risk of injury or damage to human beings or the environment; and
  - (c) having regard to Australia’s international obligations, the waste should be dealt with in the other way rather than in accordance with the import proposals or export proposals.
- (5) The Minister may decide not to grant the permit if the permit sought is a Basel export permit and the Minister thinks that:

- (a) the hazardous waste could be disposed of safely and efficiently by using a facility in Australia; and
  - (aa) such a disposal would be consistent with the environmentally sound management of the waste; and
  - (b) having regard to the desirability of using facilities in Australia for the disposal of hazardous waste, the waste should be disposed of by using that facility rather than in accordance with the export proposals.
- (6) The Minister must not grant a Basel export permit or a Basel import permit if the Minister is satisfied that the grant could result in hazardous waste being brought into Antarctica.
  - (7) The Minister must not grant a Basel export permit authorising the export of hazardous waste to a foreign country that is not a party to the Basel Convention.
  - (8) The Minister must not grant a Basel import permit authorising the import of hazardous waste from a foreign country that is not a party to the Basel Convention.

### **17A Grant of transit permits**

- (1) This section applies if the permit sought by a permit application is a Basel transit permit.
- (2) The Minister must grant the permit sought by a permit application if the Minister is satisfied:
  - (a) that carrying out the transit proposals will not pose a significant risk of injury or damage to human beings or the environment; and
  - (b) that, having regard to:
    - (i) the applicant's financial viability; and
    - (ii) the applicant's previous record in relation to environmental matters; and
    - (iii) any other relevant matters;the applicant is a suitable person to be granted a Basel transit permit; and
  - (c) that the applicant has appropriate insurance.

Note: Section 18 specifies circumstances in which the applicant has appropriate insurance.

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- (3) Subsection (2) has effect subject to this Division.
- (4) The Minister may decide not to grant the permit if the Minister thinks that it would not be in the public interest to grant it.
- (5) The Minister must not grant the permit if the Minister is satisfied that carrying out the transit proposals could result in hazardous waste being brought into Antarctica.

**18 Determination of whether applicant has appropriate insurance**

An applicant for a Basel permit has appropriate insurance for the purposes of section 17 or 17A if:

- (a) the applicant is reasonably insured against risks that might arise in relation to the hazardous waste concerned if the permit were granted; or
- (b) the applicant, whether because of arrangements made by the applicant or otherwise, will be able to discharge any liability of the applicant that might arise in relation to the hazardous waste concerned if the permit were granted.

**18A Export permits for final disposal may be granted only in exceptional circumstances**

- (1) The Minister must not grant a Basel export permit authorising the export of hazardous waste if the applicant proposes that the hazardous waste will be disposed of by a method that is within the scope of Section A of Annex IV to the Basel Convention.
- (2) Despite subsection (1), the Minister may grant a Basel export permit in the circumstances described in that subsection if:
  - (a) at the time of the decision to grant the permit, particulars of the export are specified in the regulations; and
  - (b) the Minister is satisfied that there are exceptional circumstances.
- (3) Subsection (2) does not apply if the Minister is satisfied that carrying out the export proposals would be inconsistent with the environmentally sound management of the hazardous waste.
- (4) In deciding whether there are exceptional circumstances for the purposes of subsection (2), the Minister must have regard to the following:

- (a) whether there will be a significant risk of injury or damage to human beings or the environment if the Minister decides not to grant the permit;
- (b) whether the waste is needed for research into improving the management of hazardous waste;
- (c) whether the waste is needed for testing for the purposes of improving the management of hazardous waste;
- (d) matters prescribed for the purposes of this paragraph.

**18B Basel permit may be granted only if the corresponding requirements of Article 11 regulations have been met**

*Import*

- (1) If:
  - (a) a person applies for a Basel import permit in relation to an import proposal; and
  - (b) the proposal is within the scope of a particular set of Article 11 regulations;

the Minister must not grant the permit unless the Minister is satisfied that the corresponding requirements of that set of regulations have been met in relation to the proposal. For this purpose, a ***corresponding requirement*** of a particular set of Article 11 regulations is a requirement under that set of regulations:

- (c) that must be met before granting a special import permit under that set of regulations; and
- (d) that is declared by the regulations to be a corresponding requirement for the purposes of this subsection.

*Export*

- (2) If:
  - (a) a person applies for a Basel export permit in relation to an export proposal; and
  - (b) the proposal is within the scope of a particular set of Article 11 regulations;

the Minister must not grant the permit unless the Minister is satisfied that the corresponding requirements of that set of regulations have been met in relation to the proposal. For this purpose, a ***corresponding requirement*** of a particular set of Article 11 regulations is:

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- (c) a requirement under that set of regulations to obtain the consent (whether actual or constructive) of an authority of a foreign country before granting a special export permit under that set of regulations authorising the export of hazardous waste to that country; or
- (d) another requirement under that set of regulations:
  - (i) that must be met before granting a special export permit under that set of regulations; and
  - (ii) that is declared by the regulations to be a corresponding requirement for the purposes of this subsection.

*Transit*

- (3) If:
  - (a) a person applies for a Basel transit permit in relation to a transit proposal; and
  - (b) the proposal is within the scope of a particular set of Article 11 regulations;the Minister must not grant the permit unless the Minister is satisfied that the corresponding requirements of that set of regulations have been met in relation to the proposal. For this purpose, a *corresponding requirement* of a particular set of Article 11 regulations is:
  - (c) a requirement under that set of regulations to obtain the consent (whether actual or constructive) of an authority of a foreign country before granting a special transit permit under that set of regulations authorising the carrying out of a transit proposal that involves the export of hazardous waste to that country; or
  - (d) another requirement under that set of regulations:
    - (i) that must be met before granting a special transit permit under that set of regulations; and
    - (ii) that is declared by the regulations to be a corresponding requirement for the purposes of this subsection.

**19 Applicants to be notified of decisions**

- (1) If the Minister decides to grant a Basel permit, the Minister must give the permit to the applicant as soon as practicable after making the decision.

- (2) If the Minister decides not to grant a Basel permit, the Minister must give the applicant a written statement setting out the decision and the reasons for it as soon as practicable after making the decision.
- (3) A contravention of this section in relation to a decision does not affect the validity of the decision.

### **19A Foreign countries to be notified of decision about grant of import permit**

- (1) As soon as practicable after the Minister makes a decision to grant, or not to grant, a Basel import permit authorising the import of hazardous waste from a particular foreign country, the Minister must give the competent authority of the country a written notification of the decision.
- (2) A contravention of this section in relation to a decision does not affect the validity of the decision.

### **20 Matters to be specified in Basel import permits**

- (1) A Basel import permit must specify particulars of:
  - (a) the kind of hazardous waste to be imported; and
  - (b) the quantity of hazardous waste to be imported; and
  - (c) the method of transport by which the hazardous waste is to be imported; and
  - (d) the time at which, or period during which, the hazardous waste is to be imported; and
  - (e) the place to which the hazardous waste is to be imported; and
  - (f) the way in which the hazardous waste is to be dealt with after the import; and
  - (g) if the hazardous waste is to be disposed of after the import—the facility to be used in the disposal and the process (if any) involved in the disposal.
- (3) A Basel import permit may also include conditions under section 22 and such other information as the Minister considers appropriate.

## **21 Matters to be specified in Basel export permits**

- (1) A Basel export permit must specify particulars of:
  - (a) the kind of hazardous waste to be exported; and
  - (b) the quantity of hazardous waste to be exported; and
  - (c) the method of transport by which the hazardous waste is to be exported; and
  - (d) the time at which, or period during which, the hazardous waste is to be exported; and
  - (e) the place from which the hazardous waste is to be exported; and
  - (f) the way in which the hazardous waste is to be dealt with after the export; and
  - (g) if the hazardous waste is to be disposed of after the export—the facility to be used in the disposal and the process (if any) involved in the disposal.
- (3) A Basel export permit may also include conditions under section 22 and such other information as the Minister considers appropriate.

## **21A Matters to be specified in Basel transit permits**

- (1) A Basel transit permit must specify particulars of the transit proposals concerned.
- (2) A Basel transit permit may also include conditions under section 22 and such other information as the Minister considers appropriate.

## **22 Basel permits may be granted subject to conditions**

- (1) The Minister may grant a Basel permit subject to conditions specified in the permit.
- (2) The Minister may specify in the Basel permit the day on or before which the holder of the permit is to comply with a condition.
- (2A) A Basel transit permit must be granted subject to such conditions as the Minister considers necessary or desirable for the purposes of ensuring that the transit proposals are carried out.



- (2B) A Basel permit may be granted subject to a condition relating to the giving of:
- (a) one or more guarantees; or
  - (b) one or more security deposits;
- in respect of compliance by the permit holder with the permit holder's obligations under, or arising out of, this Act.
- (2C) The following are examples of cases where a guarantee or a security deposit might be given:
- (a) a holding company gives the Minister a guarantee that a subsidiary of the holding company will pay any amounts owed by the subsidiary under subsection 37(2);
  - (b) a person gives the Minister a security deposit in respect of compliance by the person with the person's obligations to pay amounts owing under subsection 37(2).
- (2D) Subsections (2A) and (2B) do not, by implication, limit subsection (1).
- (3) A condition is not to be taken to be intended to exclude the operation of a State or Territory law unless an intention to exclude State or Territory laws, or to exclude the particular State or Territory law, is expressed in the permit.

## **Division 4—Revocation, surrender and variation of Basel permits**

### **24 Revocation of Basel permits**

- (1) Subject to subsection (3), the Minister may, by written notice given to a person who is the holder of a Basel permit, revoke the permit if:
  - (a) the Minister is satisfied that the person in, or in relation to, an application or notice concerning the permit made a statement that the person knew was false or misleading in a material particular; or
  - (b) the Minister is satisfied that the person in, or in relation to, an application or notice concerning the permit gave to the Minister a document containing information that the person knew was false or misleading in a material particular without:
    - (i) indicating to the Minister that the document was false or misleading and the respect in which the document was false or misleading; and
    - (ii) providing correct information to the Minister if the person had, or could reasonably have obtained, the correct information; or
  - (c) the Minister is satisfied that the person in, or in relation to, an application or notice concerning the permit failed to disclose all the information that should have been disclosed; or
  - (d) the Minister is satisfied that the person has breached any of the permit conditions; or
  - (e) having considered information that was not considered before granting the permit, the Minister is satisfied that if the Minister were now asked to grant the permit, the Minister would decide not to grant the permit.
- (2) If a Basel permit authorises:
  - (a) a single import or export of hazardous waste; or
  - (b) the carrying out of a single transit proposal;the Minister may not revoke the permit after that import or export has taken place, or after that transit proposal has been carried out, as the case may be.

- (2A) If a Basel permit authorises:
- (a) 2 or more imports or exports of hazardous waste; or
  - (b) the carrying out of 2 or more transit proposals;
- a revocation of that permit applies only to an import or export, or the carrying out of a transit proposal, as the case may be, that has not begun at the time of the revocation.
- (3) The revocation of the permit takes effect on the day on which the notice revoking the permit is given to the person.
- (4) If the Minister revokes the permit, the Minister must:
- (a) if it is practicable to do so—include in the notice revoking the permit a statement of the reasons for the revocation; or
  - (b) in any other case—as soon as practicable after giving the notice revoking the permit, give the person a written statement of the reasons for the revocation.
- (5) In this section:
- application or notice concerning the permit*** means:
- (a) the application for the permit; or
  - (b) a notice under section 14 relating to the application for the permit; or
  - (c) an application for a variation of the permit pursuant to which the Minister has varied the permit.

## **25 Surrender of Basel permits**

- (1) Subject to this section, the holder of a Basel permit may, at any time, surrender the permit by:
- (a) returning the permit to the Minister; and
  - (b) giving the Minister written notice that the permit is surrendered.
- (2) If the permit is a Basel import permit, the permit may not be surrendered after any import authorised by the permit has begun.
- (2A) If the permit is a Basel export permit, the permit may not be surrendered after any export authorised by the permit has begun.

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- (2B) If the permit is a Basel transit permit, the permit may not be surrendered after the carrying out of any transit proposal authorised by the permit has begun.
- (3) The surrender of the permit takes effect on the day on which subsection (1) is satisfied.

**26 Variation of Basel permits**

- (1) Subject to subsection (5), the Minister may, by written notice given to a person who is the holder of a Basel permit, vary the permit.
- (2) Without limiting subsection (1), the ways in which the Minister may vary the permit include:
  - (a) imposing a condition to which the permit is to be subject; and
  - (b) varying or revoking a permit condition; and
  - (c) if a permit condition is to be complied with on or before a particular day—varying the day.
- (3) Subsection 22(3) applies in relation to a condition specified in a notice under subsection (1) relating to the permit as if the condition were specified in the permit.
- (4) If the Minister varies the permit by imposing a condition, the Minister may also, in the notice making the variation, specify a day on or before which the condition is to be complied with. The day may be a day before or after:
  - (a) any import authorised by the permit; or
  - (b) any export authorised by the permit; or
  - (c) the carrying out of any transit proposal authorised by the permit;as the case may be.
- (5) The Minister must not vary the permit in a particular way unless:
  - (a) the person has made a variation application for the variation of the permit in that way and the Minister is satisfied as mentioned in section 30 in relation to the application; or
  - (b) the Minister is permitted by subsection (6) to make the variation.
- (6) The Minister may vary the permit in a particular way, otherwise than pursuant to a variation application, only if:

- (a) the Minister is satisfied that the person in, or in relation to, an application or notice concerning the permit made a statement that the person knew was false or misleading in a material particular; or
  - (b) the Minister is satisfied that the person in, or in relation to, an application or notice concerning the permit gave to the Minister a document containing information that the person knew was false or misleading in a material particular without:
    - (i) indicating to the Minister that the document was false or misleading and the respect in which the document was false or misleading; and
    - (ii) providing correct information to the Minister if the person had, or could reasonably have obtained, the correct information; or
  - (c) the Minister is satisfied that the person in, or in relation to, an application or notice concerning the permit failed to disclose all the information that should have been disclosed; or
  - (d) having considered information that was not considered before granting the permit, the Minister is satisfied that the variation is required to protect human beings or the environment from a significant risk of injury or damage.
- (7) A variation of the permit takes effect:
- (a) if a prospective date of effect is specified in the notice making the variation—on that day; or
  - (b) in any other case—on the day on which the notice making the variation is given to the person.
- (8) If the Minister varies the permit otherwise than pursuant to a variation application, the Minister must:
- (a) if it is practicable to do so—include in the notice making the variation a statement of the reasons for the variation; or
  - (b) in any other case—as soon as practicable after giving the notice varying the permit, give the person a written statement of the reasons for the variation.
- (9) In this section:
- application or notice concerning the permit*** means:
- (a) the application for the permit; or

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- (b) a notice under section 14 relating to the application for the permit; or
- (c) an application for a variation of the permit pursuant to which the Minister has varied the permit.

**27 Applications for variations of Basel permits**

- (1) The holder of a Basel permit may apply to the Minister for the permit to be varied in a particular way.
- (2) The application must:
  - (a) be in the form approved by the Minister; and
  - (b) set out, or be accompanied by, such information in relation to the proposed variation as is required by the form.

**28 Further information may be requested**

- (1) If the Minister needs further information to deal with a variation application, the Minister may ask the applicant to provide the information in writing.
- (2) The request must be made by written notice given to the applicant not later than 60 days after the Minister receives the application.

**28A Acknowledgment and notification**

- (1) Within 7 days after receiving a variation application, the Minister must give the applicant a written acknowledgment of the receipt.
- (2) Within 21 days after receiving an application to vary a Basel export permit authorising the export of hazardous waste to a foreign country, the Minister must give the competent authority of the country such information about the application as is specified in the regulations.

**29 Time within which applications are to be decided**

- (1) Subject to this section, where the Minister receives a variation application, the Minister must decide whether to make the variation within 60 days after the application day.
- (2) If:

- (a) the application is an application to vary a Basel export permit authorising the export of hazardous waste to a particular foreign country (the *receiving country*); and
  - (b) 46 days pass after the application day and, by the end of that period:
    - (i) the competent authority of the receiving country has neither given nor refused written consent to the variation; or
    - (ii) if it is proposed that the hazardous waste will be transported through one or more other foreign countries (the *transit countries*)—the competent authorities of the transit countries have neither given nor refused written consent to the variation;
- the period within which the decision is to be made is extended until whichever of the following comes first:
- (c) whichever of the following is applicable:
    - (i) the 14th day after the Ministerial receipt day;
    - (ii) if the Minister determines a later day that occurs on or before the 60th day after the Ministerial receipt day—that later day;
  - (d) 12 months after the application day.
- (2A) For the purposes of subsection (2), the *Ministerial receipt day* is whichever of the following applies:
- (a) if there is only one consent/refusal—the day on which the Minister receives that consent/refusal;
  - (b) if there are 2 or more consents/refusals and the Minister receives them on the same day—that day;
  - (c) if there are 2 or more consents/refusals and the Minister receives them on different days—the last of those days.
- (3) If a foreign country is a party to the Basel Convention, a reference in subsection (2) to a consent given by the competent authority of the country is a reference to a consent given in accordance with Article 6 of the Basel Convention.
- (4) If:
- (a) the application is an application to vary a Basel import permit or a Basel transit permit; and

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- (b) the Minister thinks that it will take more than 60 days to decide whether to make the variation;  
the Minister may extend the period within which that decision is to be made by up to 60 days.
- (4A) As soon as practicable after the Minister makes a determination under subparagraph (2)(c)(ii), the Minister must give the applicant a written notification of the determination.
- (4B) As soon as practicable after the Minister makes a decision under subsection (4), the Minister must give the applicant a written notification of the decision.
- (4C) As soon as practicable after the Minister makes a decision under subsection (4) varying a permit authorising the import of hazardous waste from a particular foreign country, the Minister must give the competent authority of the country a written notification of the decision.
- (4D) If a period is extended under subsection (2) or (4), the Minister must decide whether to vary the permit concerned within the extended period. However, this rule has effect subject to subsections (5), (7) and (8).
- (5) If, within the period specified in subsection (1) (or that period as extended under subsection (2) or (4)), the proposal to vary the Basel permit is referred under Subdivision A of Division 4 of Part 11 of the *Environment Protection and Biodiversity Conservation Act 1999*, the Minister must decide whether to make the variation within 30 days after he or she receives advice under that Subdivision on the proposed variation.
- Note: Under Subdivision A of Division 4 of Part 11 of the *Environment Protection and Biodiversity Conservation Act 1999*, persons considering whether to authorise certain actions must get advice on environmental matters from the Minister administering that Subdivision.
- (6) The applicant may, by writing and before the end of the period of 30 days referred to in subsection (5), agree to extend the period.
- (7) If the applicant agrees to extend the period under subsection (6), the Minister must decide whether to make the variation within the extended period.
- (8) If the Minister has not decided whether to make the variation:
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- (a) the Minister and the applicant may, by writing and before the end of the period provided for by subsections (1) to (7), agree to extend the period; and
  - (b) the Minister must decide whether to make the variation within the extended period.
- (9) If the Minister has not decided whether to make the variation by the end of the day by which the Minister is required by this section to have made the decision, the Minister is to be taken to have decided, at the end of that day, not to make the variation.

### **30 Making of variations**

The Minister must make the variation sought by a variation application if the Minister is satisfied that if the Minister were asked to grant the Basel permit, as proposed to be varied, the Minister would decide to grant the permit.

### **31 Applicants to be notified of decisions**

- (1) If the Minister decides to make the variation applied for in a variation application, the Minister must give the notice varying the permit to the applicant as soon as practicable after making the decision.
- (2) If the Minister decides not to make the variation applied for in a variation application, the Minister must give the applicant a written statement setting out the decision and the reasons for it as soon as practicable after making the decision.
- (3) A contravention of this section in relation to a decision does not affect the validity of the decision.

## Division 5—Miscellaneous

### 32 Applications and notices to be accompanied by fees

- (1) The regulations may prescribe fees, not exceeding \$8,000, to be paid in relation to applications and notices given to the Minister under this Part or under a set of Article 11 regulations.
- (2) An application or notice given to the Minister under this Part or under a set of Article 11 regulations must be accompanied by the prescribed fee (if any).
- (3) If an application or notice given to the Minister under this Part or under a set of Article 11 regulations is not accompanied by the prescribed fee (if any), the application or notice is to be taken not to have been received by the Minister until the fee has been paid.
- (4) The amount or rate of a fee must be reasonably related to the expenses incurred or to be incurred by the Commonwealth in relation to the application or notice to which it relates, and must not be such as to amount to taxation.
- (5) The Minister may determine in writing that the prescribed fee payable in relation to a specified application or a specified notice is reduced by a specified amount.
- (6) The determination has effect accordingly.

### 33 Publication of certain particulars in *Gazette*

- (1) Subject to subsection (2), the Minister must cause to be published in the *Gazette* particulars of:
  - (a) each application and notice received by the Minister under this Part or under a set of Article 11 regulations; and
  - (b) each Basel permit or special permit granted; and
  - (c) each decision not to grant a Basel permit or special permit; and
  - (d) each revocation of a Basel permit or special permit; and
  - (e) each surrender of a Basel permit or special permit; and
  - (f) each variation of a Basel permit or special permit; and
  - (g) each determination under section 13B.

- (2) The Minister is not required to publish particular information if the Minister determines, in writing, that to publish the information would be contrary to the public interest because the publication would, or could reasonably be expected to:
- (a) endanger public safety; or
  - (b) cause damage to:
    - (i) the security of Australia; or
    - (ii) the defence of Australia; or
    - (iii) the international relations of Australia.
- (3) The Minister must cause a publication required by this section to be made as soon as practicable after the requirement arises.

## **Part 3—Ministerial orders in relation to hazardous waste**

### **34 Orders where section 39 contravened**

- (1) If a person imports hazardous waste in contravention of subsection 39(1), the Minister may, in writing, order the person to deal with the waste in a specified way.
- (2) If:
  - (a) a person contravenes subsection 39(2) or (3) in relation to hazardous waste; and
  - (b) the Minister is satisfied that the hazardous waste poses a significant risk of injury or damage to human beings or the environment that requires the waste to be dealt with in a particular way;the Minister may, in writing, order the person to deal with the waste in that way.
- (3) Without limiting subsections (1) and (2), the Minister may, under either of those subsections:
  - (a) order the waste to be exported; or
  - (b) specify the day on or before which anything required to be done in relation to the waste is to be done.
- (4) An order under this section may also require the person to give the Minister (by a specified time and in a specified manner) specified information relating to the dealing with the waste.

### **35 Orders where section 40 contravened**

- (1) If a person exports hazardous waste in contravention of subsection 40(1), the Minister may, in writing, order the person to deal with the waste in a specified way.
- (2) If:
  - (a) a person contravenes subsection 40(2) in relation to hazardous waste; and
  - (b) the Minister is satisfied that:

- (i) the waste poses a significant risk of injury or damage to human beings or the environment that requires the waste to be dealt with in a particular way; or
  - (ii) Australia's international obligations require the waste to be dealt with in a particular way;
- the Minister may, in writing, order the person to deal with the waste in that way.
- (3) Without limiting subsections (1) and (2), the Minister may, under either of those subsections:
  - (a) order the waste to be imported; or
  - (b) specify the day on or before which anything required to be done in relation to the waste is to be done.
- (4) An order under this section may also require the person to give the Minister (by a specified time and in a specified manner) specified information relating to the dealing with the waste.

### **35A Orders where section 40A contravened**

- (1) If a person brings hazardous waste into Australia (whether or not by way of import) in contravention of subsection 40A(1), the Minister may, in writing, order the person to deal with the waste in a specified way.

Note: For this purpose, *Australia* does not include Australian waters.

- (2) If:
  - (a) a person contravenes subsection 40A(2) in relation to hazardous waste; and
  - (b) the Minister is satisfied that:
    - (i) the waste poses a significant risk of injury or damage to human beings or the environment that requires the waste to be dealt with in a particular way; or
    - (ii) Australia's international obligations require the waste to be dealt with in a particular way;the Minister may, in writing, order the person to deal with the waste in that way.
- (3) The Minister may, under either of subsection (1) or (2):
  - (a) order the waste to be exported; or

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(b) specify the day on or before which anything required to be done in relation to the waste is to be done.

This subsection does not, by implication, limit subsection (1) or (2).

(4) An order under this section may also require the person to give the Minister (by a specified time and in a specified manner) specified information relating to the dealing with the waste.

**36 Orders to remedy or mitigate damage**

(1) If:

(a) a person has contravened section 39, 40 or 40A in relation to hazardous waste; and

(b) the Minister is satisfied that the contravention resulted in the waste causing significant injury or damage to human beings or the environment;

the Minister may, in writing, order the person to take such steps as the Minister thinks proper to remedy or mitigate the damage.

(2) Without otherwise limiting subsection (1), the Minister must not, under that subsection, order the person to pay compensation.

**37 Minister may take action and recover costs if order under section 34, 35, 35A or 36 not complied with**

(1) If:

(a) the Minister makes an order under section 34, 35, 35A or 36 requiring a person to do something; and

(b) the person does not do the thing as and when required by the order;

the Minister may arrange for the thing to be done.

(2) If the Commonwealth incurs costs because of arrangements made by the Minister under subsection (1), the person is liable to pay to the Commonwealth an amount equal to the costs and the amount may be recovered by the Commonwealth as a debt due to the Commonwealth in a court of competent jurisdiction.

**38 Orders authorising import of exported hazardous waste where it cannot be dealt with as intended**

- (1) If:
  - (a) a person has exported hazardous waste in accordance with the requirements of this Act; and
  - (b) the waste cannot be dealt with in accordance with:
    - (i) if the export was authorised by an export permit—the permit (including the permit conditions); or
    - (ii) if the export was ordered by the Minister under section 34—the order;

the person may apply to the Minister, in writing, for an order authorising the person to import the waste.
- (2) If the Minister receives an application under subsection (1), the Minister may make the order.
- (3) The Minister may, in the order, require that the waste be imported and dealt with in a specified way.
- (4) Without limiting subsection (3), the Minister may, under that subsection, specify the day on or before which anything required to be done in relation to the waste is to be done.
- (5) An order under this section may also require the person to give the Minister (by a specified time and in a specified manner) specified information relating to the dealing with the waste.

**38A Persons to be given a reasonable time to comply with orders**

If an order under this Part requires a person to do a thing by a specified time, then that time must be reasonable having regard to the circumstances.

**38B Contravention of orders under section 34, 35 or 35A**

*Offence: failure to deal with waste*

- (1) A person is guilty of an offence if:
  - (a) the person has been given an order under section 34, 35 or 35A requiring the person to deal with waste in a specified way and by a specified time; and

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(b) the person contravenes that requirement.

Penalty:

(a) if the offender is an individual—imprisonment for a term not exceeding 2 years; or

(b) if the offender is a body corporate—a fine not exceeding 2,500 penalty units.

*Offence: failure to give information*

(2) If:

(a) a person has been given an order under this Part requiring the person to give the Minister specified information by a specified time and in a specified manner; and

(b) the person contravenes that requirement;

the person is guilty of an offence punishable, on conviction, by a fine not exceeding 30 penalty units.



## **Part 4—Regulation of import, export, transit and sale of hazardous waste**

### **39 Regulation of import of hazardous waste**

#### *Prohibition of imports*

- (1) A person must not import hazardous waste unless:
  - (a) the person is the holder of an import permit authorising the person to import the waste; or
  - (b) the person is the holder of a transit permit authorising the person to import the waste; or
  - (c) the import is authorised by an order under section 38; or
  - (d) the import has been ordered under section 35.

#### *Compliance with import permits*

- (2) The holder of an import permit must not:
  - (a) import the hazardous waste to which the permit relates except in accordance with the permit; or
  - (b) whether before or after importing the hazardous waste to which the permit relates, breach any of the permit conditions.

#### *Compliance with section 38 orders*

- (3) A person authorised by an order under section 38 to import hazardous waste must not import or deal with the waste except in accordance with the order.

#### *Offence—intention, recklessness or negligence*

- (4) A person who intentionally, recklessly or negligently contravenes subsection (1), (2) or (3) is guilty of an offence punishable on conviction by:
  - (a) in the case of a body corporate—a fine not exceeding 2,500 penalty units; or
  - (b) in the case of an individual—imprisonment for a term not exceeding 2 years.

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Note: This penalty does not, by implication, affect the operation of subsection 4B(2) of the *Crimes Act 1914*.

*Meaning of negligence*

- (5) A person is taken to contravene subsection (1), (2) or (3) **negligently** if, and only if, the person's conduct involves:
- (a) such a great falling short of the standard of care that a reasonable person would exercise in the circumstances; and
  - (b) such a high risk that the person's conduct would contravene the subsection;
- that the conduct merits criminal punishment.

*Offence—intention or recklessness*

- (6) If:
- (a) a person intentionally or recklessly contravenes subsection (1), (2) or (3); and
  - (b) the contravention injures or damages, or is likely to injure or damage, human beings or the environment;
- the person is guilty of an offence punishable on conviction by:
- (c) in the case of a body corporate—a fine not exceeding 10,000 penalty units; or
  - (d) in the case of an individual—imprisonment for a term not exceeding 5 years.

Note: This penalty does not, by implication, affect the operation of subsection 4B(2) of the *Crimes Act 1914*.

## 40 Regulation of export of hazardous waste

*Prohibition of exports*

- (1) A person must not export hazardous waste unless:
- (a) the person is the holder of an export permit authorising the person to export the waste; or
  - (b) the person is the holder of a transit permit authorising the person to export the waste; or
  - (c) the export has been ordered under section 34 or 35A.

*Compliance with export permits*

- (2) The holder of an export permit must not:
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- (a) export the hazardous waste to which the permit relates except in accordance with the permit; or
- (b) whether before or after exporting the hazardous waste to which the permit relates, breach any of the permit conditions.

*Offence—intention, recklessness or negligence*

- (3) A person who intentionally, recklessly or negligently contravenes subsection (1) or (2) is guilty of an offence punishable on conviction by:
  - (a) in the case of a body corporate—a fine not exceeding 2,500 penalty units; or
  - (b) in the case of an individual—imprisonment for a term not exceeding 2 years.

Note: This penalty does not, by implication, affect the operation of subsection 4B(2) of the *Crimes Act 1914*.

*Meaning of negligence*

- (4) A person is taken to contravene subsection (1) or (2) **negligently** if, and only if, the person's conduct involves:
  - (a) such a great falling short of the standard of care that a reasonable person would exercise in the circumstances; and
  - (b) such a high risk that the person's conduct would contravene the subsection;that the conduct merits criminal punishment.

*Offence—intention or recklessness*

- (5) If:
  - (a) a person intentionally or recklessly contravenes subsection (1) or (2); and
  - (b) the contravention injures or damages, or is likely to injure or damage, human beings or the environment;the person is guilty of an offence punishable on conviction by:
  - (c) in the case of a body corporate—a fine not exceeding 10,000 penalty units; or
  - (d) in the case of an individual—imprisonment for a term not exceeding 5 years.

Note: This penalty does not, by implication, affect the operation of subsection 4B(2) of the *Crimes Act 1914*.

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**40A Regulation of transit of hazardous waste**

*Prohibition of bringing waste into Australia*

- (1) A person must not bring hazardous waste into Australia (whether or not by way of import) in the course of carrying out a transit proposal unless the person is the holder of a transit permit authorising the person to bring the waste into Australia.

Note: For this purpose, *Australia* does not include Australian waters.

*Compliance with transit permits*

- (2) The holder of a transit permit must not:
- (a) bring the hazardous waste to which the permit relates into Australia (whether or not by way of import) except in accordance with the permit; or
  - (b) export the hazardous waste to which the permit relates except in accordance with the permit; or
  - (c) whether before or after bringing the hazardous waste to which the permit relates into Australia, breach any of the permit conditions.

*Offence—intention, recklessness or negligence*

- (3) A person who intentionally, recklessly or negligently contravenes subsection (1) or (2) is guilty of an offence punishable on conviction by:
- (a) in the case of a body corporate—a fine not exceeding 2,500 penalty units; or
  - (b) in the case of an individual—imprisonment for a term not exceeding 2 years.

Note: This penalty does not, by implication, affect the operation of subsection 4B(2) of the *Crimes Act 1914*.

*Meaning of negligence*

- (4) A person is taken to contravene subsection (1) or (2) *negligently* if, and only if, the person's conduct involves:
- (a) such a great falling short of the standard of care that a reasonable person would exercise in the circumstances; and

- (b) such a high risk that the person's conduct would contravene the subsection;  
that the conduct merits criminal punishment.

*Offence—intention or recklessness*

- (5) If:
- (a) a person intentionally or recklessly contravenes subsection (1) or (2); and
  - (b) the contravention injures or damages, or is likely to injure or damage, human beings or the environment;
- the person is guilty of an offence punishable on conviction by:
- (c) in the case of a body corporate—a fine not exceeding 10,000 penalty units; or
  - (d) in the case of an individual—imprisonment for a term not exceeding 5 years.

Note: This penalty does not, by implication, affect the operation of subsection 4B(2) of the *Crimes Act 1914*.

#### **40AA Regulation of sale of hazardous waste**

- (1) A person is guilty of an offence if:
- (a) the person sells hazardous waste to a body corporate incorporated outside Australia (whether the sale occurs within or outside Australia); and
  - (b) the body corporate does not have a registered office or a principal office and at least one executive officer in Australia; and
  - (c) the person sells the waste knowing, or being reckless as to whether, the waste is to be exported by the body corporate; and
  - (d) an export permit authorising the export of the waste is not in force when the sale occurs.

Penalty:

- (a) if the offender is an individual—imprisonment for a term not exceeding 2 years; or
  - (b) if the offender is a body corporate—a fine not exceeding 2,500 penalty units.
- (2) A person is guilty of an offence if:
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- (a) the person sells hazardous waste to another person; and
- (b) the person sells hazardous waste knowing, or being reckless as to whether the waste is to be exported; and
- (c) an export permit authorising the export of the waste is not in force when the sale occurs.

Penalty:

- (a) if the offender is an individual—imprisonment for a term not exceeding 2 years; or
- (b) if the offender is a body corporate—a fine not exceeding 2,500 penalty units.

**40B Liability of executive officers of bodies corporate**

*Offence—knowledge, recklessness or negligence*

- (1) If:
- (a) a body corporate contravenes section 39, 40, 40A or 40AA; and
  - (b) an executive officer of the body knew that, or was reckless or negligent as to whether, the contravention would occur; and
  - (c) the officer was in a position to influence the conduct of the body in relation to the contravention; and
  - (d) the officer failed to take all reasonable steps to prevent the contravention;

the officer is guilty of an offence punishable on conviction by imprisonment for a term not exceeding 2 years.

*Meaning of negligence*

- (2) The officer is taken to have been **negligent** as to whether the contravention would occur if, and only if, the officer's conduct involves:
- (a) such a great falling short of the standard of care that a reasonable person would exercise in the circumstances; and
  - (b) such a high risk that the contravention would occur;
- that the conduct merits criminal punishment.

*Offence—knowledge or recklessness*

- (3) If:
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- (a) a body corporate contravenes section 39, 40, 40A or 40AA; and
- (b) an executive officer of the body knew that, or was reckless as to whether, the contravention would occur; and
- (c) the officer was in a position to influence the conduct of the body in relation to the contravention; and
- (d) the officer failed to take all reasonable steps to prevent the contravention; and
- (e) the contravention injures or damages, or is likely to injure or damage, human beings or the environment;

the officer is guilty of an offence punishable on conviction by imprisonment for a term not exceeding 5 years.

*Reasonable steps to prevent contravention*

- (4) For the purposes of this section, in determining whether the officer failed to take all reasonable steps to prevent the contravention, a court is to have regard to whether the officer took any action directed towards ensuring the following (to the extent that the action is relevant to the contravention):
  - (a) that the body arranges regular professional assessments of the body's compliance with this Act;
  - (b) that the body implements any appropriate recommendations arising from such an assessment;
  - (c) that the body implements an effective system of hazardous waste management, where the system is consistent with the environmentally sound management of hazardous waste;
  - (d) that the body has contingency procedures for dealing with an emergency involving hazardous waste, where the procedures are directed towards:
    - (i) reducing the risk of injury or damage to human beings or the environment; and
    - (ii) mitigating any such injury or damage;
  - (e) that the body's employees, agents and contractors have a reasonable knowledge and understanding of the requirements of this Act, in so far as those requirements affect the employees, agents or contractors concerned.
- (5) Subsection (4) does not, by implication, limit the generality of paragraph (1)(d) or (3)(d).

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*Definition of executive officer*

(6) In this section:

*executive officer*, in relation to a body corporate, means a person, by whatever name called and whether or not a director of the body, who is concerned in, or takes part in, the management of the body.

**41 Injunctions**

- (1) Where a person has engaged, is engaging, or is proposing to engage, in any conduct that constituted, constitutes or would constitute an offence against section 39, 40, 40A or 40AA, the Court may, on the application of the Minister or any other person, grant an injunction restraining the person from engaging in the conduct and, if in the Court's opinion it is desirable to do so, requiring the person to do anything.
- (2) Where:
  - (a) a person has refused or failed, is refusing or failing, or is proposing to refuse or fail, to do anything; and
  - (b) the refusal or failure was, is, or would be, an offence against section 39, 40 or 40A;the Court may, on the application of the Minister or any other person, grant an injunction requiring the person to do the thing.
- (3) If, in the opinion of the Court, it is desirable to do so, the Court may grant an interim injunction pending determination of an application under subsection (1).
- (4) The Court may discharge or vary an injunction granted under this section.
- (5) The power of the Court to grant an injunction restraining a person from engaging in conduct may be exercised:
  - (a) whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of that kind; and
  - (b) whether or not the person has previously engaged in conduct of that kind; and
  - (c) whether or not there is a significant risk of injury or damage to human beings or the environment if the person engages, or continues to engage, in conduct of that kind.



- (6) The power of the Court to grant an injunction requiring a person to do a thing may be exercised:
  - (a) whether or not it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do the thing; and
  - (b) whether or not the person has previously refused or failed to do the thing; and
  - (c) whether or not there is a significant risk of injury or damage to human beings or the environment if the person refuses or fails, or continues to refuse or fail, to do the thing.
- (7) Where the Minister makes an application to the Court for the grant of an injunction under this section, the Court is not to require the Minister or any other person, as a condition of the granting of an interim injunction, to give any undertakings as to damages.
- (8) The powers conferred on the Court under this section are in addition to, and not in derogation of, any other powers of the Court.
- (9) Jurisdiction is conferred on the Court to hear and determine applications for injunctions under this section.

**Part 4A** Transportation of waste substances through transit countries where an export permit under this Act is not required

Section 41A

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**Part 4A—Transportation of waste substances through transit countries where an export permit under this Act is not required**

**41A Offence of transporting substance through transit country without approval**

- (1) A person must not export a substance or object to a foreign country (the *destination country*) if:
  - (a) the substance or object is transported through a third country (the *transit country*) on its way to the destination country; and
  - (b) the substance or object is not hazardous waste for the purposes of the application of this Act to the export; and
  - (c) under section 41C, the substance or object is a notifiable substance in relation to the transit country; and
  - (d) at the time when the substance or object was brought into the transit country, the transportation had not been approved under section 41B.
- (2) A person who intentionally or recklessly contravenes subsection (1) is guilty of an offence punishable on conviction by a fine not exceeding 200 penalty units.

**41B Approval of transportation of substances through transit countries**

*Application for approval*

- (1) A person may apply to the Minister for an approval under this section to transport a substance or object through a foreign country.

*Form of application*

- (2) The application must:
  - (a) be in the form approved by the Minister; and
  - (b) set out, or be accompanied by, such information relating to the proposed transportation as is required by the form.

*Minister must notify foreign country of application*

- (3) Within 21 days after receiving the application, the Minister must give the competent authority of the foreign country a written notification of the application. For the purposes of this section, the ***competent authority's decision period*** is the period of 60 days beginning when the notification was given to the competent authority.

*If the foreign country consents, Minister must approve transportation*

- (4) If, during the competent authority's decision period, the competent authority notifies the Minister that it consents to the transportation, the Minister must, as soon as practicable after receiving that notification, give the applicant a written notice approving the transportation.

*If the foreign country refuses consent, Minister must refuse approval of transportation*

- (5) If, during the competent authority's decision period, the competent authority notifies the Minister that it does not consent to the transportation, the Minister must, as soon as practicable after receiving that notification, give the applicant a written notice refusing to approve the transportation.

*If the foreign country does not reply within 60 days, Minister must refuse approval of transportation*

- (6) If, by the end of the competent authority's decision period, the competent authority has neither:
- (a) notified the Minister that it consents to the transportation; nor
  - (b) notified the Minister that it does not consent to the transportation;
- the Minister must, as soon as practicable, give the applicant a written notice refusing to approve the transportation.

**41C Notifiable substances in relation to transit countries**

- (1) This section has effect for the purposes of the application of this Part to the export of a substance or object to a foreign country if:

**Part 4A** Transportation of waste substances through transit countries where an export permit under this Act is not required

### Section 41C

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- (a) the substance or object is not hazardous waste for the purposes of the application of this Act to the export; and
- (b) the substance or object is, or is proposed to be, transported through a third country (the *transit country*).

#### *Notifiable substance—Annex I/III waste*

- (2) If a substance or object is Annex I/III waste, the substance or object is a **notifiable substance** in relation to the transit country for those purposes. However, this rule does not apply if the substance or object is declared to be exempt in relation to the transit country by the regulations.

Note: *Annex I/III waste* is defined by subsection (7).

#### *Declaration that substance is notifiable substance*

- (3) If:
  - (a) the transit country is a party to the Basel Convention; and
  - (b) the Minister is satisfied that, under a law of that country that gives effect to the Basel Convention, a particular substance or object is classified as hazardous waste; and
  - (c) the substance or object is not Annex I/III waste;the Minister must, by writing, declare that the substance or object is a **notifiable substance** in relation to the transit country for those purposes.

Note: *Annex I/III waste* is defined by subsection (7).

#### *Declaration has effect accordingly*

- (4) A declaration under subsection (3) has effect accordingly.

#### *Revocation of declaration*

- (5) If:
  - (a) a declaration is in force under subsection (3); and
  - (b) the Minister ceases to be satisfied of the matter referred to in paragraph (3)(b);the Minister must revoke the declaration.

*Gazettal of declaration*

- (6) If a declaration under subsection (3) is made or revoked, the Minister must arrange for a copy of the declaration or revocation to be published in the *Gazette*.

*Definition*

- (7) In this section:

*Annex I/III waste* means waste that belongs to any category contained in Annex I to the Basel Convention, unless it does not possess any of the characteristics contained in Annex III to that Convention.

## Part 5—Administration

### 42 Appointment of inspectors

- (1) The Minister may, by writing:
  - (a) appoint an eligible person to be an inspector; or
  - (b) appoint a class of eligible persons to be inspectors.
- (2) A person who is an inspector stops being an inspector if the person stops being an eligible person.
- (3) For the purposes of this section, the following persons are eligible persons:
  - (a) officers and employees of the Commonwealth and of authorities of the Commonwealth;
  - (b) officers and employees of a State or Territory whom a Minister of the Crown of the State, or Minister of the Territory, has agreed may be appointed as inspectors;
  - (c) members and special members of the Australian Federal Police;
  - (d) members of the police force of a State or Territory whom a Minister of the Crown of the State, or Minister of the Territory, has agreed may be appointed as inspectors.

Note: Paragraph (a) includes, for example, staff of Customs and of the Australian Maritime Safety Authority.

### 43 Identity cards

- (1) The Minister may cause an identity card to be issued to an inspector.
- (2) The identity card must:
  - (a) contain a recent photograph of the inspector; and
  - (b) be in a form approved, in writing, by the Minister.
- (3) A person who stops being an inspector must, as soon as practicable, return his or her identity card to the Minister.

Penalty: \$100.

- (4) An offence under subsection (3) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

#### **44 Proof of authority**

- (1) An inspector is not entitled to exercise powers under this Act in relation to a person unless the inspector first produces the inspector's identity card for inspection by the person.
- (2) Subsection (1) does not apply in relation to the exercise of a power under section 45, 49, 50 or 51.

#### **45 Power to control movement of vessels and aircraft etc.**

- (1) This section applies if an inspector has reasonable grounds for suspecting that there is in or on:
- (a) an Australian vessel or Australian aircraft; or
  - (b) a vessel or aircraft that is within Australian jurisdiction;
- hazardous waste that is to be, or that has been, imported, exported or the subject of a transit proposal.
- (2) If this section applies in relation to a vessel, the inspector may require the person in command or control, or who appears to be in command or control, of the vessel to do one or more of the following things:
- (a) ensure the vessel does not remain within, or does not come within, as the case requires, Australian jurisdiction;
  - (b) ensure the vessel is brought to a specified place to which it is safe and practicable to bring the vessel;
  - (c) ensure the vessel remains at a specified place until an inspector permits the vessel to leave;
  - (d) arrange for goods being carried on the vessel to be unloaded;
  - (e) ensure that goods being carried on the vessel are not unloaded until an inspector permits their unloading.
- (3) If this section applies in relation to an aircraft, the inspector may require the person in command or control, or who appears to be in command or control, of the aircraft to do one or more of the following things:
- (a) ensure the aircraft does not remain within, or does not come within, as the case requires, Australian jurisdiction;

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- (b) ensure the aircraft is landed at a specified airport at which it is safe and practicable to land the aircraft;
  - (c) ensure the aircraft remains at a specified airport until an inspector permits the aircraft to leave;
  - (d) arrange for goods being carried on the aircraft to be unloaded;
  - (e) ensure that goods being carried on the aircraft are not unloaded until an inspector permits their unloading.
- (4) An inspector may communicate a requirement under this section by means of:
- (a) an international signal code; or
  - (b) if the requirement relates to a vessel—any other internationally recognised means of communication with a vessel; or
  - (c) if the requirement relates to an aircraft—any other internationally recognised means of communication with an aircraft.
- (5) A person must not refuse or fail to comply with a requirement made under this section.
- Penalty: \$6,000.
- (5A) Subsection (5) does not apply if the person has a reasonable excuse.
- Note: The defendant bears an evidential burden in relation to the matter in subsection (5A). See subsection 13.3(3) of the *Criminal Code*.
- (6) It is a reasonable excuse for the person to refuse or fail to comply with the requirement if complying with the requirement would have endangered the person or any other person.

**46 Entry and search of searchable places—monitoring compliance**

- (1) Subject to subsection (2), an inspector may, for the purpose of finding out whether the requirements of this Act (including the requirements of any permit conditions or order under Part 3) are being complied with:
- (a) enter or board a searchable place; and
  - (b) exercise the powers set out in subsection 48(1).



- (2) An inspector must not enter or board a searchable place, or exercise a power, under subsection (1) unless:
  - (a) the relevant authority in relation to the place consents to the entry or boarding, or the exercise of the power; or
  - (b) a warrant under section 49 authorises the entry or boarding, or the exercise of the power.
- (3) An inspector who is permitted by this section to enter or board a vessel, aircraft or vehicle may, for the purpose of effecting the entry or boarding and for the purpose of exercising any powers that the inspector is permitted to exercise, stop and detain the vessel, aircraft or vehicle.

#### **47 Entry and search of searchable places—evidence of offences**

- (1) Subject to subsection (3), an inspector who has reasonable grounds for suspecting that there is in or on a searchable place a particular thing (in this section called the *evidence*) that may afford evidence of the commission of an offence against this Act, the inspector may:
  - (a) enter or board the searchable place; and
  - (b) exercise the powers set out in subsection 48(1).
- (2) If the inspector enters or boards the searchable place and finds the evidence, the following provisions have effect:
  - (a) the inspector may seize the evidence;
  - (b) the inspector may keep the evidence for 60 days, or, if a prosecution for an offence against this Act in the commission of which the evidence may have been used or otherwise involved is instituted within that period, until the completion of the proceedings for the offence and of any appeal from the decision in relation to the proceedings;
  - (c) if the evidence is a book, record or document—while the inspector has possession of the book, record or document, the inspector must allow the book, record or document to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the inspector's possession.
- (3) The inspector must not enter or board the searchable place, or exercise a power, under subsection (1) unless:

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- (a) the relevant authority in relation to the place consents to the entry or boarding, or the exercise of the power; or
  - (b) a warrant under section 50 that was issued in relation to the evidence authorises the entry or boarding, or the exercise of the power.
- (4) If, in the course of searching the searchable place under subsection (1) pursuant to a warrant under section 50, the inspector:
- (a) finds a thing that the inspector believes, on reasonable grounds to be:
    - (i) a thing (other than the evidence) that will afford evidence of the commission of the offence mentioned in subsection (1); or
    - (ii) a thing that will afford evidence of the commission of another offence against this Act; and
  - (b) the inspector believes, on reasonable grounds, that it is necessary to seize the thing to prevent:
    - (i) its concealment, loss or destruction; or
    - (ii) its use in committing, continuing or repeating the offence mentioned in subsection (1), or the other offence, as the case may be;
- subsection (2) applies to the thing as if it were the evidence.
- (5) An inspector who is permitted by this section to enter or board a vessel, aircraft or vehicle may, for the purpose of effecting the entry or boarding and for the purpose of exercising any powers that the inspector is permitted to exercise, stop and detain the vessel, aircraft or vehicle.

**48 General powers of inspectors in relation to searchable places**

- (1) The powers an inspector may exercise under paragraph 46(1)(b) or 47(1)(b) in relation to a searchable place are as follows:
- (a) to search any part of the place;
  - (b) to inspect, examine, take measurements of, or conduct tests (including by the taking of samples) concerning, any structure, plant, substance or other thing in or on the place;
  - (c) to take extracts from, and make copies of, any documents relating to any hazardous waste in or on the place;
  - (d) if the inspector was only authorised to enter or board the place because the relevant authority in relation to the place

consented to the entry or boarding—to require the relevant authority to:

- (i) answer any questions put by the inspector; and
  - (ii) produce any books, records or documents requested by the inspector;
- (e) if the inspector was authorised to enter or board the place by a warrant under section 49 or 50—to require any person in or on the place to:
- (i) answer any questions put by the inspector; and
  - (ii) produce any books, records or documents requested by the inspector;
- (f) to take into or onto the place such equipment and materials as the inspector requires for the purpose of exercising any powers in relation to the place.
- (2) Subsection (1) has effect subject to subsections 46(2) and 47(3).
- (3) A person must not refuse or fail to comply with a requirement made under paragraph (1)(d) or (e).
- Penalty: \$3,000.
- (3A) Subsection (3) does not apply if the person has a reasonable excuse.
- Note: The defendant bears an evidential burden in relation to the matter in subsection (3A). See subsection 13.3(3) of the *Criminal Code*.
- (4) It is a reasonable excuse for a person to refuse or fail to answer a question or produce a document if answering the question, or producing the document, might tend to incriminate the person.

#### **49 Monitoring warrants**

- (1) An inspector may apply to a magistrate for a warrant under this section in relation to a particular searchable place.
- (2) Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, by information on oath, that it is reasonably necessary that the inspector should have access to the place for the purpose of finding out whether the requirements of this Act (including the requirements of any permit conditions or order under Part 3) are being complied with.

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- (3) The magistrate must not issue the warrant unless the inspector or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought.
- (4) The warrant must:
  - (a) authorise an inspector (whether or not named in the warrant), with such assistance and by such force as is necessary and reasonable:
    - (i) to enter the place; and
    - (ii) to exercise the powers set out in subsection 48(1); and
  - (b) state whether the entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and
  - (c) specify the day (not more than 6 months after the issue of the warrant) on which the warrant ceases to have effect; and
  - (d) state the purpose for which the warrant is issued.

**50 Offence related warrants**

- (1) An inspector may apply to a magistrate for a warrant under this section in relation to a particular searchable place.
- (2) Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, by information on oath, that there are reasonable grounds for suspecting that there is, or there may be within the next 72 hours, in or on the place a particular thing (in this section called the *evidence*) that may afford evidence of the commission of an offence against this Act.
- (3) The magistrate must not issue the warrant unless the inspector or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought.
- (4) The warrant must:
  - (a) state the name of the inspector; and
  - (b) authorise the inspector, with such assistance and by such force as is necessary and reasonable:
    - (i) to enter the place; and

- (ii) to exercise the powers set out in subsection 48(1); and
- (iii) to seize the evidence; and
- (c) state whether the entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and
- (d) specify the day (not more than 7 days after the issue of the warrant) on which the warrant ceases to have effect; and
- (e) state the purpose for which the warrant is issued.

### **51 Offence related warrants may be granted by telephone**

- (1) If, because of circumstances of urgency, an inspector considers it necessary to do so, the inspector may, under this section, apply by telephone for a warrant under section 50.
- (2) Before applying for the warrant, the inspector must prepare an information of a kind mentioned in subsection 50(2) that sets out the grounds on which the issue of the warrant is sought.
- (3) If it is necessary to do so, the inspector may apply for the warrant before the information has been sworn.
- (4) If the magistrate is satisfied:
  - (a) after having considered the terms of the information; and
  - (b) after having received such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought;that there are reasonable grounds for issuing the warrant, the magistrate may, under section 50, complete and sign such warrant as the magistrate would issue under that section if the application had been made under that section.
- (5) If the magistrate completes and signs the warrant:
  - (a) the magistrate must:
    - (i) tell the inspector what the terms of the warrant are; and
    - (ii) tell the inspector the date on which and time at which the warrant was signed; and
    - (iii) record on the warrant the reasons for the granting of the warrant; and
  - (b) the inspector must:

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- (i) complete a form of warrant in the same terms as the warrant completed and signed by the magistrate; and
  - (ii) write on the form of warrant the name of the magistrate and the date on which and the time at which the magistrate signed the warrant.
- (6) The inspector must also, not later than the day after the day of expiry or execution of the warrant (whichever is the earlier), send to the magistrate:
  - (a) the form of warrant completed by the inspector; and
  - (b) the information referred to in subsection (2), which must have been duly sworn.
- (7) When the magistrate receives the documents mentioned in subsection (6), the magistrate must:
  - (a) attach them to the warrant that the magistrate completed and signed; and
  - (b) deal with them in the way in which the magistrate would have dealt with the information if the application for the warrant had been made under section 50.
- (8) A form of warrant duly completed by the inspector under subsection (5) is authority for any entry, search, seizure or other exercise of a power that the warrant signed by the magistrate authorises.
- (9) If:
  - (a) it is material, in any proceedings, for a court to be satisfied that an entry, search, seizure or other exercise of power was authorised by this section; and
  - (b) the warrant completed and signed by the magistrate authorising the exercise of power is not produced in evidence;the court must assume, unless the contrary is proved, that the exercise of power was not authorised by such a warrant.

## 52 Production of permits and orders—import or export

- (1) This section applies if an inspector or an officer of Customs (in this section called the *authorised person*) has reasonable grounds for suspecting that a person (in this section called the *suspected person*):
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- (a) intends to import or export hazardous waste; or
  - (b) is importing or exporting hazardous waste; or
  - (c) has imported or exported hazardous waste.
- (2) The authorised person may require the suspected person to produce, or to produce evidence of the existence and contents of:
- (a) a Basel permit or special permit authorising the import or export; or
  - (b) an order under section 34, 35, 35A or 38 authorising or requiring the import or export.
- (3) The suspected person must not refuse or fail to comply with the requirement.
- Penalty: \$3,000.
- (4) Subsection (3) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (4). See subsection 13.3(3) of the *Criminal Code*.

### **52A Production of transit permits**

- (1) This section applies if an inspector or an officer of Customs (the *authorised person*) has reasonable grounds for suspecting that a person (the *suspected person*):
- (a) intends to carry out a transit proposal; or
  - (b) is carrying out a transit proposal; or
  - (c) has carried out a transit proposal.
- (2) The authorised person may require the suspected person to produce, or to produce evidence of the existence and contents of, a transit permit authorising the carrying out of the transit proposal.
- (3) The suspected person must not, without reasonable excuse, refuse or fail to comply with the requirement.

Penalty: 30 penalty units.

### **53 Assistance of inspectors**

- (1) An inspector who proposes to exercise powers under this Part in relation to a searchable place may require the relevant authority in

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relation to the place to provide reasonable assistance to the inspector in relation to the exercise of those powers.

- (2) The relevant authority must not refuse or fail to comply with the requirement.

Penalty: \$3,000.

- (3) Subsection (2) does not apply if the person has a reasonable excuse.

Note: The defendant bears an evidential burden in relation to the matter in subsection (3). See subsection 13.3(3) of the *Criminal Code*.

**56 Part does not limit power to impose permit conditions**

This Part is not to be taken to limit the Minister's power to impose permit conditions on a Basel permit or special permit (including, for example, a condition requiring the holder of the permit to allow inspectors to enter or board a place and exercise powers in relation to the place).



## **Part 5A—Arrangements by Minister**

### **56A Arrangements by Minister**

#### *Arrangements*

- (1) The Minister may make arrangements directed towards any or all of the following:
  - (a) discouraging the unlawful import or export of hazardous waste;
  - (b) collecting statistics relating to the import and export of hazardous waste;
  - (c) helping to reduce the generation of hazardous waste in Australia;
  - (d) developing adequate disposal facilities for the environmentally sound management of hazardous waste in Australia;
  - (e) encouraging persons involved in the management of hazardous waste in Australia to take steps:
    - (i) to prevent or reduce pollution arising from the management of the waste; and
    - (ii) to prevent or reduce the adverse consequences of any such pollution for human health and the environment.

#### *Achievement of object or aims of this Act*

- (2) An arrangement may only be made under subsection (1) to the extent necessary to achieve the object or aims of this Act.

#### *Co-operation by the Commonwealth*

- (3) Arrangements under subsection (1) may include, but are not limited to, arrangements involving co-operation by the Commonwealth with any or all of the following:
  - (a) the government of a foreign country, of a State or of a Territory;
  - (b) the administration of an external Territory;
  - (c) an organisation;

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- (d) a person.

*Consultation with States/Territories*

- (4) Before making an arrangement covered by paragraph (1)(c), (d) or (e), the Minister must consult the government or administration of a State or Territory if:
  - (a) the arrangement relates, in whole or in part, to an activity carried on, or proposed to be carried on, in the State or Territory; and
  - (b) the government or administration of the State or Territory is not a party to the arrangement.

*Constitutional limitations*

- (5) The Minister may perform functions conferred by subsection (1) to the extent only that they do not exceed the functions that may be conferred on the Minister by virtue of any of the legislative powers of the Parliament. In particular, the Minister may perform functions under subsection (1) for purposes related to:
  - (a) trade or commerce with other countries, or among the States; and
  - (b) external affairs; and
  - (c) the spending of money appropriated by the Parliament; and
  - (d) the granting of financial assistance to a State on such terms and conditions as the Minister determines; and
  - (e) the executive power of the Commonwealth; and
  - (f) statistics; and
  - (g) a Territory; and
  - (h) the activities of a corporation to which paragraph 51(xx) of the Constitution applies.

## **Part 6—Miscellaneous**

### **57 Review of decisions**

Applications may be made to the Administrative Appeals Tribunal for the review of decisions of the following kinds:

- (a) decisions whether to grant Basel permits or special permits;
- (b) decisions to impose permit conditions on a Basel permit or special permit;
- (c) decisions to require permit conditions to be complied with on or before particular days;
- (d) decisions whether to vary Basel permits or special permits;
- (e) decisions to revoke Basel permits or special permits;
- (f) decisions under sections 34, 35, 35A and 36 to order people to do things;
- (g) decisions whether to make orders under section 38;
- (h) decisions under section 4A (which deals with declarations of hazardous waste);
- (i) decisions under section 4B (which deals with extensions of time for carrying out transit proposals);
- (j) decisions under section 13B (which deals with the classification of applications for permits);
- (k) decisions under subsection 32(5) (which deals with reduction of fees);
- (l) decisions under section 41B (which deals with the approval of the transportation of notifiable substances through transit countries);
- (m) decisions under section 41C (which deals with declarations of notifiable substances).

### **58 Statement to accompany notification of decision**

- (1) Where a decision of a kind referred to in section 57 is made and a written notice of the decision is given to a person whose interests are affected by the decision, the notice must include:

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- (a) a statement to the effect that application may be made to the Administrative Appeals Tribunal under the *Administrative Appeals Tribunal Act 1975* for review of the decision; and
  - (b) a statement to the effect that a person who is entitled to apply to the Administrative Appeals Tribunal for the review of a decision may, under section 28 of that Act, request a statement that includes reasons for the decision.
- (2) Paragraph (1)(b) does not apply in relation to a case to which subsection 28(4) of the *Administrative Appeals Tribunal Act 1975* applies.
- (3) A contravention of subsection (1) in relation to a decision does not affect the validity of the decision.

**58A Extended standing of individuals and organisations to seek judicial review**

- (1) This section has effect for the purposes of the application of the *Administrative Decisions (Judicial Review) Act 1977* to a decision under this Act.
- (2) An individual is taken to be a person aggrieved by the decision if:
- (a) the individual is an Australian citizen or ordinarily resident in Australia; and
  - (b) at any time during the 2-year period ending immediately before the decision was made, the individual has engaged in a series of activities relating to any of the following:
    - (i) research into hazardous waste;
    - (ii) the protection of human beings or the environment from the harmful effects of hazardous waste;
    - (iii) research into pollution of the air, water or soil, where the pollution results from the disposal of hazardous waste;
    - (iv) the protection of human beings or the environment from the harmful effects of pollution of the air, water or soil, where the pollution results from the disposal of hazardous waste.
- (3) An organisation or association (whether incorporated or not) is taken to be a person aggrieved by the decision if:

- (a) the organisation or association is incorporated, or was otherwise established, in Australia; and
  - (b) at any time during the 2-year period ending immediately before the decision was made, the organisation or association has engaged in a series of activities relating to any of the following:
    - (i) research into hazardous waste;
    - (ii) the protection of human beings or the environment from the harmful effects of hazardous waste;
    - (iii) research into pollution of the air, water or soil, where the pollution results from the disposal of hazardous waste;
    - (iv) the protection of human beings or the environment from the harmful effects of pollution of the air, water or soil, where the pollution results from the disposal of hazardous waste; and
  - (c) the objects or purposes of the organisation or association included any of the following:
    - (i) research into hazardous waste;
    - (ii) the protection of human beings or the environment from the harmful effects of hazardous waste;
    - (iii) research into pollution of the air, water or soil, where the pollution results from the disposal of hazardous waste;
    - (iv) the protection of human beings or the environment from the harmful effects of pollution of the air, water or soil, where the pollution results from the disposal of hazardous waste.
- (4) Subsection (3) does not apply in relation to a decision made before the objects or purposes of the organisation or association included the matter concerned.
- (5) Subparagraphs (2)(b)(i), (ii), (iii) and (iv) and (3)(b)(i), (ii), (iii) and (iv) do not apply to activities unless:
- (a) the activities are carried on in Australia; or
  - (b) the activities relate to the effects of hazardous waste of Australian origin on human beings, or the environment, outside Australia.

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- (6) For the purposes of this section, in interpreting the expression *hazardous waste*, the effect of sections 4A, 4F and 4G is to be ignored.
- (7) A reference in this section to a *decision under this Act* includes a reference to:
  - (a) conduct for the purpose of making a decision under this Act; or
  - (b) a failure to make a decision under this Act.
- (8) To avoid doubt, this section is intended to extend, but not limit, the meaning of the expression *person aggrieved by a decision*.

**58B Evidentiary certificate—classification of hazardous waste**

*Hazardous waste*

- (1) The Minister may issue a written certificate stating that a specified substance or object is, or is not, in specified circumstances, hazardous waste:
  - (a) for the purposes of this Act; or
  - (b) for the purposes of the application of this Act to a specified matter.

*Consultation with Hazardous Waste Technical Group*

- (2) Before issuing a certificate under subsection (1), the Minister must:
  - (a) convene a meeting of the Hazardous Waste Technical Group; and
  - (b) consult the members of the Group who are present at that meeting.

This subsection does not prevent the Minister from consulting other persons.

*Prima facie evidence*

- (3) In any proceedings relating to this Act, a certificate under subsection (1) is prima facie evidence of the matters in the certificate.

*Gazettal*

- (4) A copy of a certificate under subsection (1) must be published in the *Gazette*.

**58C Evidentiary certificate—environmentally sound management of hazardous waste***Environmentally sound management of hazardous waste*

- (1) The Minister may issue a written certificate stating that engaging, or failing to engage, in specified conduct in relation to specified hazardous waste is, or is not, environmentally sound management of that hazardous waste for the purposes of this Act.

*Consultation with Hazardous Waste Technical Group*

- (2) Before issuing a certificate under subsection (1), the Minister must:
- (a) convene a meeting of the Hazardous Waste Technical Group; and
  - (b) consult the members of the Group who are present at that meeting.

This subsection does not prevent the Minister from consulting other persons.

*Prima facie evidence*

- (3) In any proceedings relating to this Act, a certificate under subsection (1) is prima facie evidence of the matters in the certificate.

*Gazettal*

- (4) A copy of a certificate under subsection (1) must be published in the *Gazette*.

**58D Regulations defining *hazardous waste*—Minister to consult Hazardous Waste Technical Group**

Before regulations are made for the purposes of paragraph (a) of the definition of *hazardous waste* in section 4, the Minister must:

- (a) convene a meeting of the Hazardous Waste Technical Group; and

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- (b) consult the members of the Group who are present at that meeting.

This section does not prevent the Minister from consulting other persons.

### **58E Hazardous Waste Technical Group**

#### *Technical Group*

- (1) The Minister must establish a committee, to be known as the Hazardous Waste Technical Group, consisting of such persons as the Minister determines.

#### *Qualifications of members*

- (2) Before appointing a person as a member of the Hazardous Waste Technical Group, the Minister must have regard to:
  - (a) the person's expertise in, or experience of, matters relevant to the scientific and/or technical aspects of the management of hazardous waste; or
  - (b) the person's expertise in, or experience of, matters relevant to the social and/or economic aspects of the management of hazardous waste; or
  - (c) the person's expertise in, or experience of, matters relevant to the environmental aspects of the management of hazardous waste; or
  - (d) the person's expertise in, or experience of, matters relevant to the public health and public safety aspects of the management of hazardous waste.

#### *Procedures*

- (3) The Minister may determine:
  - (a) the manner in which the Hazardous Waste Technical Group is to perform its functions; and
  - (b) the procedure to be followed at or in relation to meetings of the Group, including (but not limited to) matters with respect to:
    - (i) the number of members of the Group who are to constitute a quorum; and



- (ii) the selection of a member of the Group to preside at meetings of the Group; and
- (iii) the manner in which questions arising at a meeting of the Group are to be decided.

*Remuneration*

- (4) A member of the Hazardous Waste Technical Group is to be paid such remuneration (if any) as is determined by the Remuneration Tribunal.
- (5) If no determination of that remuneration by the Remuneration Tribunal is in operation, a member of the Hazardous Waste Technical Group is to be paid such remuneration as is specified in the regulations.
- (6) A member of the Hazardous Waste Technical Group is to be paid such allowances as are prescribed.
- (7) Subsections (4), (5) and (6) have effect subject to the *Remuneration Tribunal Act 1973*.

## **59 Conduct of directors, servants and agents**

- (1) Where, in proceedings for an offence against this Act, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show:
  - (a) that the conduct was engaged in by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; and
  - (b) that the director, servant or agent had the state of mind.
- (2) Any conduct engaged in on behalf of a body corporate by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority is to be taken, in proceedings for an offence against this Act, to have been engaged in also by the body corporate unless the body corporate establishes that the body corporate took reasonable precautions and exercised due diligence to avoid the conduct.
- (3) Where, in proceedings for an offence against this Act, it is necessary to establish the state of mind of a person other than a

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body corporate in relation to particular conduct, it is sufficient to show:

- (a) that the conduct was engaged in by a servant or agent of the person within the scope of his or her actual or apparent authority; and
  - (b) that the servant or agent had the state of mind.
- (4) Any conduct engaged in on behalf of a person other than a body corporate by a servant or agent of the person within the scope of his or her actual or apparent authority is to be taken, in proceedings for an offence against this Act, to have been engaged in also by the first-mentioned person unless the person establishes that the person took reasonable precautions and exercised due diligence to avoid the conduct.
- (5) Where:
- (a) a person other than a body corporate is convicted of an offence; and
  - (b) the person would not have been convicted of the offence if subsections (3) and (4) had not been enacted;
- the person is not liable to be punished by imprisonment for the offence.
- (6) A reference in subsection (1) or (3) to the state of mind of a person includes a reference to:
- (a) the knowledge, intention, opinion, belief or purpose of the person; and
  - (b) the person's reasons for the intention, opinion, belief or purpose.
- (7) A reference in this section to a director of a body corporate includes a reference to a constituent member of a body corporate incorporated for a public purpose by a law of the Commonwealth or of a State or Territory.
- (8) A reference in this section to engaging in conduct includes a reference to failing or refusing to engage in conduct.

**59A Nomination of address for service of documents**

- (1) For the purposes of this Act, a person may nominate an address for service in:
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- (a) a permit application made by the person; or
  - (b) any other document given by the person to, or to a delegate of, the Minister.
- (2) For the purposes of this Act, a document may be given to the person by leaving it at, or by sending it by pre-paid post to, the nominated address for service.
- (3) Subsection (2) has effect in addition to section 28A of the *Acts Interpretation Act 1901*.

### **59B Service of summons or process on foreign corporations— criminal proceedings**

- (1) This section applies to a summons or process in any criminal proceedings under this Act, where:
- (a) the summons or process is required to be served on a body corporate incorporated outside Australia; and
  - (b) the body corporate does not have a registered office or a principal office in Australia; and
  - (c) the body corporate has an agent in Australia.
- (2) Service of the summons or process may be effected by serving it on the agent.
- (3) Subsection (2) has effect in addition to section 28A of the *Acts Interpretation Act 1901*.

Note: Section 28A of the *Acts Interpretation Act 1901* deals with the service of documents.

- (4) In this section:

***criminal proceeding*** includes a proceeding to determine whether a person should be tried for an offence.

### **60 Delegation by Minister**

The Minister may, by signed writing, delegate any or all of the Minister's functions and powers under this Act to:

- (a) the Secretary of the Department; or
- (b) an SES employee, or acting SES employee, in the Department.

## 61 Annual report

- (1) The Minister must:
  - (a) as soon as practicable after the end of each financial year, prepare a report on the operation of this Act during that year; and
  - (b) cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after completion of the report.
- (2) If this Act does not commence at the beginning of a financial year, this section has effect in relation to the period beginning at the commencement of this Act and ending on the next 30 June as if:
  - (a) if the period is less than 6 months—the period were included in the next financial year; or
  - (b) in any other case—the period were a financial year.

## 62 Regulations

- (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The regulations may amend the Schedule for the purpose of ensuring that the Schedule correctly sets out the English text of the Basel Convention as in force from time to time.

## **Schedule—Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal**

### Section 4

*Note* The following text incorporates corrections made by the Rectifications of 4 November 1992 and 16 May 1994, and amendments made by Decision IV/9 of the Fourth Conference of the Parties to the Convention.

#### PREAMBLE

The Parties to this Convention,

Aware of the risk of damage to human health and the environment caused by hazardous wastes and other wastes and the transboundary movement thereof,

Mindful of the growing threat to human health and the environment posed by the increased generation and complexity, and transboundary movement of hazardous wastes and other wastes,

Mindful also that the most effective way of protecting human health and the environment from the dangers posed by such wastes is the reduction of their generation to a minimum in terms of quantity and/or hazard potential,

Convinced that States should take necessary measures to ensure that the management of hazardous wastes and other wastes including their transboundary movement and disposal is consistent with the protection of human health and the environment whatever the place of their disposal,

Noting that States should ensure that the generator should carry out duties with regard to the transport and disposal of hazardous wastes and other wastes in a manner that is consistent with the protection of the environment, whatever the place of disposal,

Fully recognizing that any State has the sovereign right to ban the entry or disposal of foreign hazardous wastes and other wastes in its territory,

Recognizing also the increasing desire for the prohibition of transboundary movements of hazardous wastes and their disposal in other States, especially developing countries,

Convinced that hazardous wastes and other wastes should, as far as is compatible with environmentally sound and efficient management, be disposed of in the State where they were generated,

Aware also that transboundary movements of such wastes from the State of their generation to any other State should be permitted only when conducted under conditions which do not endanger human health and the environment, and under conditions in conformity with the provisions of this Convention,

Considering that enhanced control of transboundary movement of hazardous wastes and other wastes will act as an incentive for their environmentally sound management and for the reduction of the volume of such transboundary movement,

Convinced that States should take measures for the proper exchange of information on and control of the transboundary movement of hazardous wastes and other wastes from and to those States,

Noting that a number of international and regional agreements have addressed the issue of protection and preservation of the environment with regard to the transit of dangerous goods,

Taking into account the Declaration of the United Nations Conference on the Human Environment (Stockholm, 1972), the Cairo Guidelines and Principles for the Environmentally Sound Management of Hazardous Wastes adopted by the Governing Council of the United Nations Environment Programme (UNEP) by decision 14/30 of 17 June 1987, the Recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods (formulated in 1957 and updated biennially), relevant recommendations, declarations, instruments and regulations adopted within the United Nations system and the work and studies done within other international and regional organizations,

Mindful of the spirit, principles, aims and functions of the World Charter for Nature adopted by the General Assembly of the United Nations at its thirty-seventh session (1982) as the rule of ethics in respect of the protection of the human environment and the conservation of natural resources,

Affirming that States are responsible for the fulfilment of their international obligations concerning the protection of human health and protection and preservation of the environment, and are liable in accordance with international law,

Recognizing that in the case of a material breach of the provisions of this Convention or any protocol thereto the relevant international law of treaties shall apply,

Aware of the need to continue the development and implementation of environmentally sound low-waste technologies, recycling options, good house-keeping and management systems with a view to reducing to a minimum the generation of hazardous wastes and other wastes,

Aware also of the growing international concern about the need for stringent control of transboundary movement of hazardous wastes and other wastes, and of the need as far as possible to reduce such movement to a minimum,

Concerned about the problem of illegal transboundary traffic in hazardous wastes and other wastes,

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Taking into account also the limited capabilities of the developing countries to manage hazardous wastes and other wastes,

Recognizing the need to promote the transfer of technology for the sound management of hazardous wastes and other wastes produced locally, particularly to the developing countries in accordance with the spirit of the Cairo Guidelines and decision 14/16 of the Governing Council of UNEP on Promotion of the transfer of environmental protection technology,

Recognizing also that hazardous wastes and other wastes should be transported in accordance with relevant international conventions and recommendations,

Convinced also that the transboundary movement of hazardous wastes and other wastes should be permitted only when the transport and the ultimate disposal of such wastes is environmentally sound, and

Determined to protect, by strict control, human health and the environment against the adverse effects which may result from the generation and management of hazardous wastes and other wastes,

HAVE AGREED AS FOLLOWS:

#### Article 1

##### Scope of the Convention

1. The following wastes that are subject to transboundary movement shall be “hazardous wastes” for the purposes of this Convention:
    - (a) Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III; and
    - (b) Wastes that are not covered under paragraph (a) but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit.
  2. Wastes that belong to any category contained in Annex II that are subject to transboundary movement shall be “other wastes” for the purposes of this Convention.
  3. Wastes which, as a result of being radioactive, are subject to other international control systems, including international instruments, applying specifically to radioactive materials, are excluded from the scope of this Convention.
  4. Wastes which derive from the normal operations of a ship, the discharge of which is covered by another international instrument, are excluded from the scope of this Convention.
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Article 2

Definitions

For the purposes of this Convention:

1. “Wastes” are substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law;
2. “Management” means the collection, transport and disposal of hazardous wastes or other wastes, including after-care of disposal sites;
3. “Transboundary movement” means any movement of hazardous wastes or other wastes from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement;
4. “Disposal” means any operation specified in Annex IV to this Convention;
5. “Approved site or facility” means a site or facility for the disposal of hazardous wastes or other wastes which is authorized or permitted to operate for this purpose by a relevant authority of the State where the site or facility is located;
6. “Competent authority” means one governmental authority designated by a Party to be responsible, within such geographical areas as the Party may think fit, for receiving the notification of a transboundary movement of hazardous wastes or other wastes, and any information related to it, and for responding to such a notification, as provided in Article 6;
7. “Focal point” means the entity of a Party referred to in Article 5 responsible for receiving and submitting information as provided for in Articles 13 and 16;
8. “Environmentally sound management of hazardous wastes or other wastes” means taking all practicable steps to ensure that hazardous wastes or other wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such wastes;
9. “Area under the national jurisdiction of a State” means any land, marine area or airspace within which a State exercises administrative and regulatory responsibility in accordance with international law in regard to the protection of human health or the environment;



10. "State of export" means a Party from which a transboundary movement of hazardous wastes or other wastes is planned to be initiated or is initiated;
11. "State of import" means a Party to which a transboundary movement of hazardous wastes or other wastes is planned or takes place for the purpose of disposal therein or for the purpose of loading prior to disposal in an area not under the national jurisdiction of any State;
12. "State of transit" means any State, other than the State of export or import, through which a movement of hazardous wastes or other wastes is planned or takes place;
13. "States concerned" means Parties which are States of export or import, or transit States, whether or not Parties;
14. "Person" means any natural or legal person;
15. "Exporter" means any person under the jurisdiction of the State of export who arranges for hazardous wastes or other wastes to be exported;
16. "Importer" means any person under the jurisdiction of the State of import who arranges for hazardous wastes or other wastes to be imported;
17. "Carrier" means any person who carries out the transport of hazardous wastes or other wastes;
18. "Generator" means any person whose activity produces hazardous wastes or other wastes or, if that person is not known, the person who is in possession and/or control of those wastes;
19. "Disposer" means any person to whom hazardous wastes or other wastes are shipped and who carries out the disposal of such wastes;
20. "Political and/or economic integration organization" means an organization constituted by sovereign States to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve, formally confirm or accede to it;
21. "Illegal traffic" means any transboundary movement of hazardous wastes or other wastes as specified in Article 9.

Article 3

National Definitions of Hazardous Wastes

1. Each Party shall, within six months of becoming a Party to this Convention, inform the Secretariat of the Convention of the wastes, other than those listed in Annexes I and II, considered or defined as hazardous under its national legislation and of any requirements concerning transboundary movement procedures applicable to such wastes.
2. Each Party shall subsequently inform the Secretariat of any significant changes to the information it has provided pursuant to paragraph 1.
3. The Secretariat shall forthwith inform all Parties of the information it has received pursuant to paragraphs 1 and 2.
4. Parties shall be responsible for making the information transmitted to them by the Secretariat under paragraph 3 available to their exporters.

Article 4

General Obligations

1. (a) Parties exercising their right to prohibit the import of hazardous wastes or other wastes for disposal shall inform the other Parties of their decision pursuant to Article 13.  
(b) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes to the Parties which have prohibited the import of such wastes, when notified pursuant to subparagraph (a) above.  
(c) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes if the State of import does not consent in writing to the specific import, in the case where that State of import has not prohibited the import of such wastes.
2. Each Party shall take the appropriate measures to:
  - (a) Ensure that the generation of hazardous wastes and other wastes within it is reduced to a minimum, taking into account social, technological and economic aspects;
  - (b) Ensure the availability of adequate disposal facilities, for the environmentally sound management of hazardous wastes and other wastes, that shall be located, to the extent possible, within it, whatever the place of their disposal;

- (c) Ensure that persons involved in the management of hazardous wastes or other wastes within it take such steps as are necessary to prevent pollution due to hazardous wastes and other wastes arising from such management and, if such pollution occurs, to minimize the consequences thereof for human health and the environment;
  - (d) Ensure that the transboundary movement of hazardous wastes and other wastes is reduced to the minimum consistent with the environmentally sound and efficient management of such wastes, and is conducted in a manner which will protect human health and the environment against the adverse effects which may result from such movement;
  - (e) Not allow the export of hazardous wastes or other wastes to a State or group of States belonging to an economic and/or political integration organization that are Parties, particularly developing countries, which have prohibited by their legislation all imports, or if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner, according to criteria to be decided on by the Parties at their first meeting.
  - (f) Require that information about a proposed transboundary movement of hazardous wastes and other wastes be provided to the States concerned, according to Annex V A, to state clearly the effects of the proposed movement on human health and the environment;
  - (g) Prevent the import of hazardous wastes and other wastes if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner;
  - (h) Co-operate in activities with other Parties and interested organizations, directly and through the Secretariat, including the dissemination of information on the transboundary movement of hazardous wastes and other wastes, in order to improve the environmentally sound management of such wastes and to achieve the prevention of illegal traffic.
3. The Parties consider that illegal traffic in hazardous wastes or other wastes is criminal.
4. Each Party shall take appropriate legal, administrative and other measures to implement and enforce the provisions of this Convention, including measures to prevent and punish conduct in contravention of the Convention.
5. A Party shall not permit hazardous wastes or other wastes to be exported to a non-Party or to be imported from a non-Party.
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6. The Parties agree not to allow the export of hazardous wastes or other wastes for disposal within the area south of 60° South latitude, whether or not such wastes are subject to transboundary movement.

7. Furthermore, each Party shall:

- (a) Prohibit all persons under its national jurisdiction from transporting or disposing of hazardous wastes or other wastes unless such persons are authorized or allowed to perform such types of operations;
- (b) Require that hazardous wastes and other wastes that are to be the subject of a transboundary movement be packaged, labelled, and transported in conformity with generally accepted and recognized international rules and standards in the field of packaging, labelling, and transport, and that due account is taken of relevant internationally recognized practices;
- (c) Require that hazardous wastes and other wastes be accompanied by a movement document from the point at which a transboundary movement commences to the point of disposal.

8. Each Party shall require that hazardous wastes or other wastes, to be exported, are managed in an environmentally sound manner in the State of import or elsewhere. Technical guidelines for the environmentally sound management of wastes subject to this Convention shall be decided by the Parties at their first meeting.

9. Parties shall take the appropriate measures to ensure that the transboundary movement of hazardous wastes and other wastes only be allowed if:

- (a) The State of export does not have the technical capacity and the necessary facilities, capacity or suitable disposal sites in order to dispose of the wastes in question in an environmentally sound and efficient manner; or
- (b) The wastes in question are required as a raw material for recycling or recovery industries in the State of import; or
- (c) The transboundary movement in question is in accordance with other criteria to be decided by the Parties, provided those criteria do not differ from the objectives of this Convention.

10. The obligation under this Convention of States in which hazardous wastes and other wastes are generated to require that those wastes are managed in an environmentally sound manner may not under any circumstances be transferred to the States of import or transit.

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11. Nothing in this Convention shall prevent a Party from imposing additional requirements that are consistent with the provisions of this Convention, and are in accordance with the rules of international law, in order better to protect human health and the environment.

12. Nothing in this Convention shall affect in any way the sovereignty of States over their territorial sea established in accordance with international law, and the sovereign rights and the jurisdiction which States have in their exclusive economic zones and their continental shelves in accordance with international law, and the exercise by ships and aircraft of all States of navigational rights and freedoms as provided for in international law and as reflected in relevant international instruments.

13. Parties shall undertake to review periodically the possibilities for the reduction of the amount and/or the pollution potential of hazardous wastes and other wastes which are exported to other States, in particular to developing countries.

#### Article 5

##### Designation of Competent Authorities and Focal Point

To facilitate the implementation of this Convention, the Parties shall:

1. Designate or establish one or more competent authorities and one focal point. One competent authority shall be designated to receive the notification in case of a State of transit.
2. Inform the Secretariat, within three months of the date of the entry into force of this Convention for them, which agencies they have designated as their focal point and their competent authorities.
3. Inform the Secretariat, within one month of the date of decision, of any changes regarding the designation made by them under paragraph 2 above.

#### Article 6

##### Transboundary Movement between Parties

1. The State of export shall notify, or shall require the generator or exporter to notify, in writing, through the channel of the competent authority of the State of export, the competent authority of the States concerned of any proposed transboundary movement of hazardous wastes or other wastes. Such notification shall contain the declarations and information specified in Annex V A, written
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in a language acceptable to the State of import. Only one notification needs to be sent to each State concerned.

2. The State of import shall respond to the notifier in writing, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. A copy of the final response of the State of import shall be sent to the competent authorities of the States concerned which are Parties.

3. The State of export shall not allow the generator or exporter to commence the transboundary movement until it has received written confirmation that:

- (a) The notifier has received the written consent of State of import; and
- (b) The notifier has received from the State of import confirmation of the existence of a contract between the exporter and the disposer specifying environmentally sound management of the wastes in question.

4. Each State of transit which is a Party shall promptly acknowledge to the notifier receipt of the notification. It may subsequently respond to the notifier in writing, within 60 days, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. The State of export shall not allow the transboundary movement to commence until it has received the written consent of the State of transit. However, if at any time a Party decides not to require prior written consent, either generally or under specific conditions, for transit transboundary movements of hazardous wastes or other wastes, or modifies its requirements in this respect, it shall forthwith inform the other Parties of its decision pursuant to Article 13. In this latter case, if no response is received by the State of export within 60 days of the receipt of a given notification by the State of transit, the State of export may allow the export to proceed through the State of transit.

5. In the case of a transboundary movement of wastes where the wastes are legally defined as or considered to be hazardous wastes only:

- (a) By the State of export, the requirements of paragraph 9 of this Article that apply to the importer or disposer and the State of import shall apply mutatis mutandis to the exporter and State of export, respectively;
- (b) By the State of import, or by the States of import and transit which are Parties, the requirements of paragraphs 1, 3, 4 and 6 of this Article that apply to the exporter and State of export shall apply mutatis mutandis to the importer or disposer and State of import, respectively; or
- (c) By any State of transit which is a Party, the provisions of paragraph 4 shall apply to such State.

6. The State of export may, subject to the written consent of the States concerned, allow the generator or the exporter to use a general notification where hazardous wastes or other wastes having the same physical and chemical characteristics are shipped regularly to the same disposer via the same customs office of exit of the State of export via the same customs office of entry of the State of import, and, in the case of transit, via the same customs office of entry and exit of the State or States of transit.

7. The States concerned may make their written consent to the use of the general notification referred to in paragraph 6 subject to the supply of certain information, such as the exact quantities or periodical lists of hazardous wastes or other wastes to be shipped.

8. The general notification and written consent referred to in paragraphs 6 and 7 may cover multiple shipments of hazardous wastes or other wastes during a maximum period of 12 months.

9. The Parties shall require that each person who takes charge of a transboundary movement of hazardous wastes or other wastes sign the movement document either upon delivery or receipt of the wastes in question. They shall also require that the disposer inform both the exporter and the competent authority of the State of export of receipt by the disposer of the wastes in question and, in due course, of the completion of disposal as specified in the notification. If no such information is received within the State of export, the competent authority of the State of export or the exporter shall so notify the State of import.

10. The notification and response required by this Article shall be transmitted to the competent authority of the Parties concerned or to such governmental authority as may be appropriate in the case of non-Parties.

11. Any transboundary movement of hazardous wastes or other wastes shall be covered by insurance, bond or other guarantee as may be required by the State of import or any State of transit which is a Party.

#### Article 7

##### Transboundary Movement from a Party through States which are not Parties

Paragraph 1 of Article 6 of the Convention shall apply *mutatis mutandis* to transboundary movement of hazardous wastes or other wastes from a Party through a State or States which are not Parties.

Article 8

Duty to Re-import

When a transboundary movement of hazardous wastes or other wastes to which the consent of the States concerned has been given, subject to the provisions of this Convention, cannot be completed in accordance with the terms of the contract, the State of export shall ensure that the wastes in question are taken back into the State of export, by the exporter, if alternative arrangements cannot be made for their disposal in an environmentally sound manner, within 90 days from the time that the importing State informed the State of export and the Secretariat, or such other period of time as the States concerned agree. To this end, the State of export and any Party of transit shall not oppose, hinder or prevent the return of those wastes to the State of export.

Article 9

Illegal Traffic

1. For the purpose of this Convention, any transboundary movement of hazardous wastes or other wastes:
  - (a) without notification pursuant to the provisions of this Convention to all States concerned; or
  - (b) without the consent pursuant to the provisions of this Convention of a State concerned; or
  - (c) with consent obtained from States concerned through falsification, misrepresentation or fraud; or
  - (d) that does not conform in a material way with the documents; or
  - (e) that results in deliberate disposal (e.g. dumping) of hazardous wastes or other wastes in contravention of this Convention and of general principles of international law,shall be deemed to be illegal traffic.
  
2. In case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the exporter or generator, the State of export shall ensure that the wastes in question are:
  - (a) taken back by the exporter or the generator or, if necessary, by itself into the State of export, or, if impracticable,
  - (b) are otherwise disposed of in accordance with the provisions of this Convention,



within 30 days from the time the State of export has been informed about the illegal traffic or such other period of time as States concerned may agree. To this end the Parties concerned shall not oppose, hinder or prevent the return of those wastes to the State of export.

3. In the case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the importer or disposer, the State of import shall ensure that the wastes in question are disposed of in an environmentally sound manner by the importer or disposer or, if necessary, by itself within 30 days from the time the illegal traffic has come to the attention of the State of import or such other period of time as the States concerned may agree. To this end, the Parties concerned shall co-operate, as necessary, in the disposal of the wastes in an environmentally sound manner.

4. In cases where the responsibility for the illegal traffic cannot be assigned either to the exporter or generator or to the importer or disposer, the Parties concerned or other Parties, as appropriate, shall ensure, through co-operation, that the wastes in question are disposed of as soon as possible in an environmentally sound manner either in the State of export or the State of import or elsewhere as appropriate.

5. Each Party shall introduce appropriate national/domestic legislation to prevent and punish illegal traffic. The Parties shall co-operate with a view to achieving the objects of this Article.

#### Article 10

##### International Co-operation

1. The Parties shall co-operate with each other in order to improve and achieve environmentally sound management of hazardous wastes and other wastes.

2. To this end, the Parties shall:

- (a) Upon request, make available information, whether on a bilateral or multilateral basis, with a view to promoting the environmentally sound management of hazardous wastes and other wastes, including harmonization of technical standards and practices for the adequate management of hazardous wastes and other wastes;
- (b) Co-operate in monitoring the effects of the management of hazardous wastes on human health and the environment;
- (c) Co-operate, subject to their national laws, regulations and policies, in the development and implementation of new environmentally sound low-waste technologies and the improvement of existing technologies

with a view to eliminating, as far as practicable, the generation of hazardous wastes and other wastes and achieving more effective and efficient methods of ensuring their management in an environmentally sound manner, including the study of the economic, social and environmental effects of the adoption of such new or improved technologies;

- (d) Co-operate actively, subject to their national laws, regulations and policies, in the transfer of technology and management systems related to the environmentally sound management of hazardous wastes and other wastes. They shall also co-operate in developing the technical capacity among Parties, especially those which may need and request technical assistance in this field;
- (e) Co-operate in developing appropriate technical guidelines and/or codes of practice.

3. The Parties shall employ appropriate means to co-operate in order to assist developing countries in the implementation of subparagraphs a, b, c and d of paragraph 2 of Article 4.

4. Taking into account the needs of developing countries, co-operation between Parties and the competent international organizations is encouraged to promote, inter alia, public awareness, the development of sound management of hazardous wastes and other wastes and the adoption of new low-waste technologies.

#### Article 11

##### Bilateral Multilateral and Regional Agreements

1. Notwithstanding the provisions of Article 4 paragraph 5, Parties may enter into bilateral, multilateral, or regional agreements or arrangements regarding transboundary movement of hazardous wastes or other wastes with Parties or non-Parties provided that such agreements or arrangements do not derogate from the environmentally sound management of hazardous wastes and other wastes as required by this Convention. These agreements or arrangements shall stipulate provisions which are not less environmentally sound than those provided for by this Convention in particular taking into account the interests of developing countries.

2. Parties shall notify the Secretariat of any bilateral, multilateral or regional agreements or arrangements referred to in paragraph 1 and those which they have entered into prior to the entry into force of this Convention for them, for the purpose of controlling transboundary movements of hazardous wastes and

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other wastes which take place entirely among the Parties to such agreements. The provisions of this Convention shall not affect transboundary movements which take place pursuant to such agreements provided that such agreements are compatible with the environmentally sound management of hazardous wastes and other wastes as required by this Convention.

#### Article 12

##### Consultations on Liability

The Parties shall co-operate with a view to adopting, as soon as practicable, a protocol setting out appropriate rules and procedures in the field of liability and compensation for damage resulting from the transboundary movement and disposal of hazardous wastes and other wastes.

#### Article 13

##### Transmission of Information

1. The Parties shall, whenever it come to their knowledge, ensure that, in the case of an accident occurring during the transboundary movement of hazardous wastes or other wastes or their disposal, which are likely to present risks to human health and the environment in other States, those States are immediately informed.
2. The Parties shall inform each other, through the Secretariat, of:
  - (a) Changes regarding the designation of competent authorities and/or focal points, pursuant to Article 5;
  - (b) Changes in their national definition of hazardous wastes, pursuant to Article 3;and, as soon as possible,
  - (c) Decisions made by them not to consent totally or partially to the import of hazardous wastes or other wastes for disposal within the area under their national jurisdiction;
  - (d) Decisions taken by them to limit or ban the export of hazardous wastes or other wastes;
  - (e) Any other information required pursuant to paragraph 4 of this Article.
3. The Parties, consistent with national laws and regulations, shall transmit, through the Secretariat, to the Conference of the Parties established under Article 15, before the end of each calendar year, a report on the previous calendar year, containing the following information:

- (a) Competent authorities and focal points that have been designated by them pursuant to Article 5;
- (b) Information regarding transboundary movements of hazardous wastes or other wastes in which they have been involved, including:
  - (i) The amount of hazardous wastes and other wastes exported, their category, characteristics, destination, any transit country and disposal method as stated on the response to notification;
  - (ii) The amount of hazardous wastes and other wastes imported, their category, characteristics, origin, and disposal methods;
  - (iii) Disposals which did not proceed as intended;
  - (iv) Efforts to achieve a reduction of the amount of hazardous wastes or other wastes subject to transboundary movement;
- (c) Information on the measures adopted by them in implementation of this Convention;
- (d) Information on available qualified statistics which have been compiled by them on the effects of human health and the environment of the generation, transportation and disposal of hazardous wastes or other wastes;
- (e) Information concerning bilateral, multilateral and regional agreements and arrangements entered into pursuant to Article 11 of this Convention;
- (f) Information on accidents occurring during the transboundary movement and disposal of hazardous wastes and other wastes and on the measures undertaken to deal with them;
- (g) Information on disposal options operated within the area of their national jurisdiction;
- (h) Information on measures undertaken for development of technologies for the reduction and/or elimination of production of hazardous wastes and other wastes; and
- (i) Such other matters as the Conference of the Parties shall deem relevant.

4. The Parties, consistent with national laws and regulations, shall ensure that copies of each notification concerning any given transboundary movement of hazardous wastes or other wastes, and the response to it, are sent to the Secretariat when a Party considers that its environment may be affected by that transboundary movement has requested that this should be done.

Article 14

Financial Aspects

1. The Parties agree that, according to the specific needs of different regions and subregions, regional or sub-regional centres for training and technology transfers regarding the management of hazardous wastes and other wastes and the minimization of their generation should be established. The Parties shall decide on the establishment of appropriate funding mechanisms of a voluntary nature.
2. The Parties shall consider the establishment of a revolving fund to assist on an interim basis in case of emergency situations to minimize damage from accidents arising from transboundary movements of hazardous wastes and other wastes or during the disposal of those wastes.

Article 15

Conference of the Parties

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the Executive Director of UNEP not later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.
2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.
3. The Conference of the Parties shall by consensus agree upon and adopt rules of procedure for itself and for any subsidiary body it may establish, as well as financial rules to determine in particular the financial participation of the Parties under this Convention.
4. The Parties at their first meeting shall consider any additional measures needed to assist them in fulfilling their responsibilities with respect to the protection and the preservation of the marine environment in the context of this Convention.

5. The Conference of the Parties shall keep under continuous review and evaluation the effective implementation of this Convention, and, in addition, shall:

- (a) Promote the harmonization of appropriate policies, strategies and measures for minimizing harm to human health and the environment by hazardous wastes and other wastes;
- (b) Consider and adopt, as required, amendments to this Convention and its annexes, taking into consideration, *inter alia*, available scientific, technical, economic and environmental information;
- (c) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention in the light of experience gained in its operation and in the operation of the agreements and arrangements envisaged in Article 11;
- (d) Consider and adopt protocols as required; and
- (e) Establish such subsidiary bodies as are deemed necessary for the implementation of this Convention.

6. The United Nations, its specialized agencies, as well as any State not party to this Convention, may be represented as observers at meetings of the Conference of the Parties. Any other body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to hazardous wastes or other wastes which has informed the Secretariat of its wish to be represented as an observer at a meeting of the Conference of the Parties, may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

7. The Conference of the Parties shall undertake three years after the entry into force of this Convention, and at least every six years thereafter, an evaluation of its effectiveness and, if deemed necessary, to consider the adoption of a complete or partial ban of transboundary movements of hazardous wastes and other wastes in light of the latest scientific, environmental, technical and economic information.

#### Article 16

#### Secretariat

1. The functions of the Secretariat shall be:

- (a) To arrange for and service meetings provided for in Article 15 and 17;
  - (b) To prepare and transmit reports based upon information received in accordance with Articles 3, 4, 6, 11 and 13 as well as upon information
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derived from meetings of subsidiary bodies established under Article 15 as well as upon, as appropriate, information provided by relevant intergovernmental and non-governmental entities;

- (c) To prepare reports on its activities carried out in implementation of its functions under this Convention and present them to the Conference of the Parties;
  - (d) To ensure the necessary coordination with relevant international bodies, and in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions;
  - (e) To communicate with focal points and competent authorities established by the Parties in accordance with Article 5 of this Convention;
  - (f) To compile information concerning authorized national sites and facilities of Parties available for the disposal of their hazardous wastes and other wastes and to circulate this information among Parties;
  - (g) To receive and convey information from and to Parties on;
    - sources of technical assistance and training;
    - available technical and scientific know-how;
    - sources of advice and expertise; and
    - availability of resourceswith a view to assisting them, upon request, in such areas as:
    - the handling of the notification system of this Convention;
    - the management of hazardous wastes and other wastes;
    - environmentally sound technologies relating to hazardous wastes and other wastes, such as low- and non-waste technology;
    - the assessment of disposal capabilities and sites;
    - the monitoring of hazardous wastes and other wastes; and
    - emergency responses;
  - (h) To provide Parties, upon request, with information on consultants or consulting firms having the necessary technical competence in the field, which can assist them to examine a notification for a transboundary movement, the concurrence of a shipment of hazardous wastes or other wastes with the relevant notification, and/or the fact that the proposed disposal facilities for hazardous wastes or other wastes are environmentally sound, when they have reason to believe that the wastes in question will not be managed in an environmentally sound manner. Any such examination would not be at the expense of the Secretariat;
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- (i) To assist Parties upon request in their identification of cases of illegal traffic and to circulate immediately to the Parties concerned any information it has received regarding illegal traffic;
- (j) To co-operate with Parties and with relevant and competent international organizations and agencies in the provision of experts and equipment for the purpose of rapid assistance to States in the event of an emergency situation; and
- (k) To perform such other functions relevant to the purposes of this Convention as may be determined by the Conference of the Parties.

2. The secretariat functions will be carried out on an interim basis by UNEP until the completion of the first meeting of the Conference of the Parties held pursuant to Article 15.

3. At its first meeting, the Conference of the Parties shall designate the Secretariat from among those existing competent intergovernmental organizations which have signified their willingness to carry out the secretariat functions under this Convention. At this meeting, the Conference of the Parties shall also evaluate the implementation by the interim Secretariat of the functions assigned to it, in particular under paragraph 1 above, and decide upon the structures appropriate for those functions.

#### Article 17

##### Amendment of the Convention

1. Any Party may propose amendments to this Convention and any Party to a protocol may propose amendments to that protocol. Such amendments shall take due account, inter alia, of relevant scientific and technical considerations.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the Signatories to this Convention for information.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at



the meeting, and shall be submitted by the Depositary to all Parties for ratification, approval, formal confirmation or acceptance.

4. The procedure mentioned in paragraph 3 above shall apply to amendments to any protocol, except that a two-thirds majority of the Parties to that protocol present and voting at the meeting shall suffice for their adoption.

5. Instruments of ratification, approval, formal confirmation or acceptance of amendments shall be deposited with the Depositary. Amendments adopted in accordance with paragraphs 3 or 4 above shall enter into force between Parties having accepted them on the ninetieth day after the receipt by the Depositary of their instrument of ratification, approval, formal confirmation or acceptance by at least three-fourths of the Parties who accepted them or by at least two thirds of the Parties to the protocol concerned who accepted them, except as may otherwise be provided in such protocol. The amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval, formal confirmation or acceptance of the amendments.

6. For the purpose of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

#### Article 18

##### Adoption and Amendment of Annexes

1. The annexes to this Convention or to any protocol shall form an integral part of this Convention or of such protocol, as the case may be and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to scientific, technical and administrative matters.

2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to a protocol:

- (a) Annexes to this Convention and its protocols shall be proposed and adopted according to the procedure laid down in Article 17, paragraphs 2, 3 and 4;
- (b) Any Party that is unable to accept an additional annex to this Convention or an annex to any protocol to which it is party shall so notify the Depositary, in writing, within six months from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for a previous

declaration of objection and the annexes shall thereupon enter into force for that Party;

- (c) On the expiry of six months from the date of the circulation of the communication by the Depositary, the annex shall become effective for all Parties to this Convention or to any protocol concerned, which have not submitted a notification in accordance with the provision of subparagraph (b) above.

3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to a protocol. Annexes and amendments thereto shall take due account, inter alia, of relevant scientific and technical considerations.

4. If an additional annex or an amendment to an annex involves an amendment to this Convention or to any protocol, the additional annex or amended annex shall not enter into force until such time as the amendment to this Convention or to the protocol enters into force.

#### Article 19

#### Verification

Any Party which has reason to believe that another Party is acting or has acted in breach of its obligations under this Convention may inform the Secretariat thereof, and in such an event, shall simultaneously and immediately inform, directly or through the Secretariat, the Party against whom the allegations are made. All relevant information should be submitted by the Secretariat to the Parties.

#### Article 20

#### Settlement of Disputes

1. In case of a dispute between Parties as to the interpretation or application of, or compliance with, this Convention or any protocol thereto, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.

2. If the Parties concerned cannot settle their dispute through the means mentioned in the preceding paragraph, the dispute, if the parties to the dispute agree, shall be submitted to the International Court of Justice or to arbitration under the conditions set out in Annex VI on Arbitration. However, failure to

reach common agreement on submission of the dispute to the International Court of Justice or to arbitration shall not absolve the Parties from the responsibility of continuing to seek to resolve it by the means referred to in paragraph 1.

3. When ratifying, accepting, approving, formally confirming or acceding to this Convention, or at any time thereafter, a State or political and/or economic integration organization may declare that it recognizes as compulsory ipso facto and without special agreement, in relation to any Party accepting the same obligation:

- (a) submission of the dispute to the International Court of Justice; and/or
- (b) arbitration in accordance with the procedures set out in Annex VI.

Such declaration shall be notified in writing to the Secretariat which shall communicate it to the Parties.

#### Article 21

##### Signature

This Convention shall be open for signature by States, by Namibia, represented by the United Nations Council for Namibia, and by political and/or economic integration organizations, in Basel on 22 March 1989, at the Federal Department of Foreign Affairs of Switzerland in Berne from 23 March 1989 to 30 June 1989, and at United Nations Headquarters in New York from 1 July 1989 to 22 March 1990.

#### Article 22

##### Ratification, Acceptance, Formal Confirmation or Approval

1. This Convention shall be subject to ratification, acceptance or approval by States and by Namibia, represented by the United Nations Council for Namibia, and to formal confirmation or approval by political and/or economic integration organizations. Instruments of ratification, acceptance, formal confirmation, or approval shall be deposited with the Depositary.

2. Any organization referred to in paragraph 1 above which becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to the Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention.

In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently.

3. In their instruments of formal confirmation or approval, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary, who will inform the Parties of any substantial modification in the extent of their competence.

#### Article 23

#### Accession

1. This Convention shall be open for accession by States, by Namibia, represented by the United Nations Council for Namibia, and by political and/or economic integration organizations from the day after the date on which the Convention is closed for signature. The instruments of accession shall be deposited with the Depositary.

2. In their instruments of accession, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary of any substantial modification in the extent of their competence.

3. The provisions of Article 22 paragraph 2, shall apply to political and/or economic integration organizations which accede to this Convention.

#### Article 24

#### Right to Vote

1. Except as provided for in paragraph 2 below, each Contracting Party to this Convention shall have one vote.

2. Political and/or economic integration organizations, in matters within their competence, in accordance with Article 22, paragraph 3, and Article 23, paragraph 2, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to the Convention or the relevant protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article 25

Entry into Force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the twentieth instrument of ratification, acceptance, formal confirmation, approval or accession.
2. For each State or political and/or economic integration organization which ratifies, accepts, approves or formally confirms this Convention or accedes thereto after the date of the deposit of the twentieth instrument of ratification, acceptance, approval, formal confirmation or accession, it shall enter into force on the ninetieth day after the date of deposit by such State or political and/or economic integration organization of its instrument of ratification, acceptance, approval, formal confirmation or accession.
3. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a political and/or economic integration organization shall not be counted as additional to those deposited by member States of such organization.

Article 26

Reservations and Declarations

1. No reservation or exception may be made to this Convention.
2. Paragraph 1 of this Article does not preclude a State or political and/or economic integration organization, when signing, ratifying, accepting, approving, formally confirming or acceding to this Convention, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonization of its laws and regulations with the provisions of this Convention, provided that such declarations or statements do not purport to exclude or to modify the legal effects of the provisions of the Convention in their application to that State.

Article 27

Withdrawal

1. At any time after three years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.

2. Withdrawal shall be effective one year from receipt of notification by the Depository, or on such later date as may be specified in the notification.

Article 28

Depository

The Secretary-General of the United Nations shall be the Depository of this Convention and of any protocol thereto.

Article 29

Authentic texts

The original Arabic, Chinese, English, French, Russian and Spanish texts of this Convention are equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

DONE at Basel on the 22nd day of March 1989.

Annex I

CATEGORIES OF WASTES TO BE CONTROLLED

Waste Streams

- Y1 Clinical wastes from medical care in hospitals, medical centers and clinics
- Y2 Wastes from the production and preparation of pharmaceutical products
- Y3 Waste pharmaceuticals, drugs and medicines
- Y4 Wastes from the production, formulation and use of biocides and phytopharmaceuticals
- Y5 Wastes from the manufacture, formulation and use of wood preserving chemicals
- Y6 Wastes from the production, formulation and use of organic solvents
- Y7 Wastes from heat treatment and tempering operations containing cyanides
- Y8 Waste mineral oils unfit for their originally intended use
- Y9 Waste oils/water, hydrocarbons/water mixtures, emulsions
- Y10 Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)
- Y11 Waste tarry residues arising from refining, distillation and any pyrolytic treatment
- Y12 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish
- Y13 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives
- Y14 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known
- Y15 Wastes of an explosive nature not subject to other legislation
- Y16 Wastes from production, formulation and use of photographic chemicals and processing materials
- Y17 Wastes resulting from surface treatment of metals and plastics
- Y18 Residues arising from industrial waste disposal operations
- Wastes having as constituents:
  - Y19 Metal carbonyls
  - Y20 Beryllium; beryllium compounds
  - Y21 Hexavalent chromium compounds

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Y22	Copper compounds
Y23	Zinc compounds
Y24	Arsenic; arsenic compounds
Y25	Selenium; selenium compounds
Y26	Cadmium; cadmium compounds
Y27	Antimony; antimony compounds
Y28	Tellurium; tellurium compounds
Y29	Mercury; mercury compounds
Y30	Thallium; thallium compounds
Y31	Lead; lead compounds
Y32	Inorganic fluorine compounds excluding calcium fluoride
Y33	Inorganic cyanides
Y34	Acidic solutions or acids in solid form
Y35	Basic solutions or bases in solid form
Y36	Asbestos (dust and fibres)
Y37	Organic phosphorus compounds
Y38	Organic cyanides
Y39	Phenols; phenol compounds including chlorophenols
Y40	Ethers
Y41	Halogenated organic solvents
Y42	Organic solvents excluding halogenated solvents
Y43	Any congener of polychlorinated dibenzo-furan
Y44	Any congener of polychlorinated dibenzo-p-dioxin
Y45	Organohalogen compounds other than substances referred to in this Annex (eg. Y39, Y41, Y42, Y43, Y44).

- (a) To facilitate the application of this Convention, and subject to paragraphs (b), (c) and (d), wastes listed in Annex VIII are characterized as hazardous pursuant to Article 1, paragraph 1 (a), of this Convention, and wastes listed in Annex IX are not covered by Article 1, paragraph 1 (a), of this Convention.
- (b) Designation of a waste on Annex VIII does not preclude, in a particular case, the use of Annex III to demonstrate that a waste is not hazardous pursuant to Article 1, paragraph 1 (a), of this Convention.
- (c) Designation of a waste on Annex IX does not preclude, in a particular case, characterization of such a waste as hazardous pursuant to Article 1, paragraph 1 (a), of this Convention if it contains Annex I material to an extent causing it to exhibit an Annex III characteristic.



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(d) Annexes VIII and IX do not affect the application of Article 1, paragraph 1 (a), of this Convention for the purpose of characterization of wastes.

Annex II

CATEGORIES OF WASTES REQUIRING SPECIAL CONSIDERATION

- Y46 Wastes collected from households  
Y47 Residues arising from the incineration of household wastes

Annex III

LIST OF HAZARDOUS CHARACTERISTICS

UN Class*	Code	Characteristics
1	H1	Explosive An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.
3	H3	Flammable liquids The word “flammable” has the same meaning as “inflammable”. Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60.5°C, closed-cup test, or not more than 65.6°C, open-cup test. (Since the results of open-cup tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowance for such differences would be within the spirit of this definition.)

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4.1	H4.1	Flammable solids Solids, or waste solids, other than those classed as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.
4.2	H4.2	Substances or wastes liable to spontaneous combustion Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or to heating up on contact with air, and being then liable to catch fire.
4.3	H4.3	Substances or wastes which, in contact with water emit flammable gases Substances or wastes which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.
5.1	H5.1	Oxidizing Substances or wastes which, while in themselves not necessarily combustible, may, generally by yielding oxygen cause, or contribute to, the combustion of other materials.
5.2	H5.2	Organic Peroxides Organic substances or wastes which contain the bivalent-O-O-structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.
6.1	H6.1	Poisonous (Acute) Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.
6.2	H6.2	Infectious substances Substances or wastes containing viable micro organisms or their toxins which are known or suspected to cause disease in animals or humans.
8	H8	Corrosives Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or, in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.

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9	H10	Liberation of toxic gases in contact with air or water Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.
9	H11	Toxic (Delayed or chronic) Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.
9	H12	Ecotoxic Substances or wastes which if released present or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems.
9	H13	Capable, by any means, after disposal, of yielding another material, e.g., leachate, which possesses any of the characteristics listed above.

#### Tests

The potential hazards posed by certain types of wastes are not yet fully documented; tests to define quantitatively these hazards do not exist. Further research is necessary in order to develop means to characterise potential hazards posed to man and/or the environment by these wastes. Standardized tests have been derived with respect to pure substances and materials. Many countries have developed national tests which can be applied to materials listed in Annex I, in order to decide if these materials exhibit any of the characteristics listed in this Annex.

#### Annex IV

##### DISPOSAL OPERATIONS

##### A. OPERATIONS WHICH DO NOT LEAD TO THE POSSIBILITY OF RESOURCE RECOVERY, RECYCLING, RECLAMATION, DIRECT RE-USE OR ALTERNATIVE USES

Section A encompasses all such disposal operations which occur in practice.

D1	Deposit into or onto land, (e.g., landfill, etc.)
D2	Land treatment, (e.g., biodegradation of liquid or sludgy discards in soils, etc.)
D3	Deep injection, (e.g., injection of pumpable discards into wells, salt

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- domes or naturally occurring repositories, etc.)
- D4 Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc.)
- D5 Specially engineered landfill, (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)
- D6 Release into a water body except seas/oceans
- D7 Release into seas/oceans including sea-bed insertion
- D8 Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A
- D9 Physico chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A, (e.g., evaporation, drying, calcination, neutralisation, precipitation, etc.)
- D10 Incineration on land
- D11 Incineration at sea
- D12 Permanent storage (e.g., emplacement of containers in a mine, etc.)
- D13 Blending or mixing prior to submission to any of the operations in Section A
- D14 Repackaging prior to submission to any of the operations in Section A
- D15 Storage pending any of the operations in Section A

**B. OPERATIONS WHICH MAY LEAD TO RESOURCE RECOVERY, RECYCLING, RECLAMATION, DIRECT RE-USE OR ALTERNATIVE USES**

Section B encompasses all such operations with respect to materials legally defined as or considered to be hazardous wastes and which otherwise would have been destined for operations included in Section A

- R1 Use as a fuel (other than in direct incineration) or other means to generate energy
- R2 Solvent reclamation/regeneration
- R3 Recycling/reclamation of organic substances which are not used as solvents
- R4 Recycling/reclamation of metals and metal compounds
- R5 Recycling/reclamation of other inorganic materials
- R6 Regeneration of acids or bases
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R7	Recovery of components used for pollution abatement
R8	Recovery of components from catalysts
R9	Used oil re-refining or other reuses of previously used oil
R10	Land treatment resulting in benefit to agriculture or ecological improvement
R11	Uses of residual materials obtained from any of the operations numbered R1-R10
R12	Exchange of wastes for submission to any of the operations numbered R1-R11
R13	Accumulation of material intended for any operation in Section B.

Annex V A

INFORMATION TO BE PROVIDED ON NOTIFICATION

1. Reason for waste export
2. Exporter of the waste<sup>1</sup>
3. Generator(s) of the waste and site of generation<sup>1</sup>
4. Disposer of the waste and actual site of disposal<sup>1</sup>
5. Intended carrier(s) of the waste or their agents, if known<sup>1</sup>
6. Country of export of the waste  
Competent authority<sup>2</sup>
7. Expected countries of transit  
Competent authority<sup>2</sup>
8. Country of import of the waste  
Competent authority<sup>2</sup>
9. General or single notification
10. Projected date(s) of shipment(s) and period of time over which waste is to be exported and proposed itinerary (including point of entry and exit)<sup>3</sup>
11. Means of transport envisaged (road, rail, sea, air, inland waters)
12. Information relating to insurance<sup>4</sup>
13. Designation and physical description of the waste including Y number and UN number and its composition<sup>5</sup> and information on any special handling requirements including emergency provisions in case of accidents
14. Estimated quantity in weight/volume<sup>6</sup>
16. Process by which the waste is generated<sup>7</sup>
17. For wastes listed in Annex I, classifications from Annex III: hazardous characteristic, H number, and UN class
18. Method of disposal as per Annex IV

19. Declaration by the generator and exporter that the information is correct
20. Information transmitted (including technical description of the plant) to the exporter or generator from the disposer of the waste upon which the latter has based his assessment that there was no reason to believe that the wastes will not be managed in an environmentally sound manner in accordance with the laws and regulations of the country of import
21. Information concerning the contract between the exporter and disposer.

Notes

- 1 Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted.
- 2 Full name and address, telephone, telex or telefax number.
- 3 In the case of a general notification covering several shipments, either the expected dates of each shipment or, if this is not known, the expected frequency of the shipments will be required.
- 4 Information to be provided on relevant insurance requirements and how they are met by exporter, carrier and disposer.
- 5 The nature and the concentration of the most hazardous components, in terms of toxicity and other dangers presented by the waste both in handling and in relation to the proposed disposal method.
- 6 In the case of a general notification covering several shipments, both the estimated total quantity and the estimated quantities for each individual shipment will be required.
- 7 Insofar as this is necessary to assess the hazard and determine the appropriateness of the proposed disposal operation.

Annex V B

INFORMATION TO BE PROVIDED ON THE MOVEMENT DOCUMENT

1. Exporter of the waste<sup>1</sup>
2. Generator(s) of the waste and site of generation<sup>1</sup>
3. Disposer of the waste and actual site of disposal<sup>1</sup>
4. Carrier(s) of the waste 1 or his agent(s)
5. Subject of general or single notification
6. The date the transboundary movement started and date(s) and signature on receipt by each person who takes charge of the waste

7. Means of transport (road, rail, inland waterway, sea, air) including countries of export, transit and import, also point of entry and exit where these have been designated
8. General description of the waste (physical state, proper UN shipping name and class, UN number, Y number and H number as applicable)
9. Information on special handling requirements including emergency provision in case of accidents
10. Type and number of packages
11. Quantity in weight/volume
12. Declaration by the generator or exporter that the information is correct
13. Declaration by the generator or exporter indicating no objection from the competent authorities of all States concerned which are Parties
14. Certification by disposer of receipt at designated disposal facility and indication of method of disposal and of the approximate date of disposal.

#### Notes

The information required on the movement document shall where possible be integrated in one document with that required under transport rules. Where this is not possible the information should complement rather than duplicate that required under the transport rules. The movement document shall carry instructions as to who is to provide information and fill-out any form.

- 1 Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted in case of emergency.

#### Annex VI

#### ARBITRATION

##### Article 1

Unless the agreement referred to in Article 20 of the Convention provides otherwise, the arbitration procedure shall be conducted in accordance with Articles 2 to 10 below.

##### Article 2

The claimant party shall notify the Secretariat that the parties have agreed to submit the dispute to arbitration pursuant to paragraph 2 or paragraph 3 of Article 20 and include, in particular, the Articles of the Convention the

interpretation or application of which are at issue. The Secretariat shall forward the information thus received to all Parties to the Convention.

Article 3

The arbitral tribunal shall consist of three members. Each of the Parties to the dispute shall appoint an arbitrator, and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the chairman of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

Article 4

1. If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of either party, designate him within a further two months period.
2. If one of the parties to the dispute does not appoint an arbitrator within two months of the receipt of the request, the other party may inform the Secretary-General of the United Nations who shall designate the chairman of the arbitral tribunal within a further two months' period. Upon designation, the chairman of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the Secretary-General of the United Nations, who shall make this appointment within a further two months' period.

Article 5

1. The arbitral tribunal shall render its decision in accordance with international law and in accordance with the provisions of this Convention.
2. Any arbitral tribunal constituted under the Provisions of this Annex shall draw up its own rules of procedure.

Article 6

1. The decisions of the arbitral tribunal both on procedure and on substance, shall be taken by majority vote of its members.
2. The tribunal may take all appropriate measures in order to establish the facts. It may, at the request of one of the parties, recommend essential interim measures of protection.



3. The parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings.
4. The absence or default of a party in the dispute shall not constitute an impediment to the proceedings.

#### Article 7

The tribunal may hear and determine counter-claims arising directly out of the subject-matter of the dispute.

#### Article 8

Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

#### Article 9

Any Party that has an interest of a legal nature in the subject-matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the tribunal.

#### Article 10

1. The tribunal shall render its award within five months of the date on which it is established unless it finds it necessary to extend the time-limit for a period which should not exceed five months.
2. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon the parties to the dispute.
3. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another tribunal constituted for this purpose in the same manner as the first.

### Annex VIII

#### LIST A

Wastes contained in this Annex are characterized as hazardous under Article 1, paragraph 1 (a), of this Convention, and their

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designation on this Annex does not preclude the use of Annex III to demonstrate that a waste is not hazardous.

A1 Metal and metal-bearing wastes

A1010 Metal wastes and waste consisting of alloys of any of the following:

- Antimony
- Arsenic
- Beryllium
- Cadmium
- Lead
- Mercury
- Selenium
- Tellurium
- Thallium

but excluding such wastes specifically listed on list B.

A1020 Waste having as constituents or contaminants, excluding metal waste in massive form, any of the following:

- Antimony; antimony compounds
- Beryllium; beryllium compounds
- Cadmium; cadmium compounds
- Lead; lead compounds
- Selenium; selenium compounds
- Tellurium; tellurium compounds

A1030 Wastes having as constituents or contaminants any of the following:

- Arsenic; arsenic compounds
- Mercury; mercury compounds
- Thallium; thallium compounds

A1040 Wastes having as constituents any of the following:

- Metal carbonyls
  - Hexavalent chromium compounds
-

A1050	Galvanic sludges
A1060	Waste liquors from the pickling of metals
A1070	Leaching residues from zinc processing, dust and sludges such as jarosite, hematite, etc.
A1080	Waste zinc residues not included on list B, containing lead and cadmium in concentrations sufficient to exhibit Annex III characteristics
A1090	Ashes from the incineration of insulated copper wire
A1100	Dusts and residues from gas cleaning systems of copper smelters
A1110	Spent electrolytic solutions from copper electrorefining and electrowinning operations
A1120	Waste sludges, excluding anode slimes, from electrolyte purification systems in copper electrorefining and electrowinning operations
A1130	Spent etching solutions containing dissolved copper
A1140	Waste cupric chloride and copper cyanide catalysts
A1150	Precious metal ash from incineration of printed circuit boards not included on list B <sup>1</sup>
A1160	Waste lead-acid batteries, whole or crushed
A1170	Unsorted waste batteries excluding mixtures of only list B batteries. Waste batteries not specified on list B containing Annex I constituents to an extent to render them hazardous
A1180	Waste electrical and electronic assemblies or scrap <sup>2</sup> containing components such as accumulators and

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<sup>1</sup> Note that mirror entry on list B (B1160) does not specify exceptions.

<sup>2</sup> This entry does not include scrap assemblies from electric power generation.

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other batteries included on list A, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or contaminated with Annex I constituents (e.g. cadmium, mercury, lead, polychlorinated biphenyl) to an extent that they possess any of the characteristics contained in Annex III (note the related entry on list B B1110)<sup>3</sup>.

A2 Wastes containing principally inorganic constituents, which may contain metals and organic materials

- A2010 Glass waste from cathode-ray tubes and other activated glasses
- A2020 Waste inorganic fluorine compounds in the form of liquids or sludges but excluding such wastes specified on list B
- A2030 Waste catalysts but excluding such wastes specified on list B
- A2040 Waste gypsum arising from chemical industry processes, when containing Annex I constituents to the extent that it exhibits an Annex III hazardous characteristic (note the related entry on list B B2080)
- A2050 Waste asbestos (dusts and fibres)
- A2060 Coal-fired power plant fly-ash containing Annex I substances in concentrations sufficient to exhibit Annex III characteristics (Note the related entry on list B B2050)

A3 Wastes containing principally organic constituents, which may contain metals and inorganic materials

- A3010 Waste from the production or processing of petroleum coke and bitumen

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<sup>3</sup> PCBs are at a concentration level of 50 mg/kg or more.

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A3020	Waste mineral oils unfit for their originally intended use
A3030	Wastes that contain, consist of or are contaminated with leaded anti-knock compound sludges
A3040	Waste thermal (heat transfer) fluids
A3050	Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives excluding such wastes specified on list B (note the related entry on list B B4020)
A3060	Waste nitrocellulose
A3070	Waste phenols, phenol compounds including chlorophenol in the form of liquids or sludges
A3080	Waste ethers not including those specified on list B
A3090	Waste leather dust, ash, sludges and flours when containing hexavalent chromium compounds or biocides (note the related entry on list B B3100)
A3100	Waste paring and other waste of leather or of composition leather not suitable for the manufacture of leather articles containing hexavalent chromium compounds or biocides (Note the related entry on list B B3090)
A3110	Fellmongery wastes containing hexavalent chromium compounds or biocides or infectious substances (note the related entry on list B B3110)
A3120	Fluff — light fraction from shredding
A3130	Waste organic phosphorous compounds
A3140	Waste non-halogenated organic solvents but excluding such wastes specified on list B
A3150	Waste halogenated organic solvents

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- A3160 Waste halogenated or unhalogenated non-aqueous distillation residues arising from organic solvent recovery operations
- A3170 Wastes arising from the production of aliphatic halogenated hydrocarbons (such as chloromethane, dichloro-ethane, vinyl chloride, vinylidene chloride, allyl chloride and epichlorhydrin)
- A3180 Wastes, substances and articles containing, consisting of or contaminated with polychlorinated biphenyl (PCB), polychlorinated terphenyl (PCT), polychlorinated naphthalene (PCN) or polybrominated biphenyl (PBB), or any other polybrominated analogues of these compounds, at a concentration level of 50 mg/kg or more<sup>4</sup>
- A3190 Waste tarry residues (excluding asphalt cements) arising from refining, distillation and any pyrolytic treatment of organic materials
- A4 Wastes which may contain either inorganic or organic constituents
- A4010 Wastes from the production, preparation and use of pharmaceutical products but excluding such wastes specified on list B
- A4020 Clinical and related wastes; that is wastes arising from medical, nursing, dental, veterinary or similar practices, and wastes generated in hospitals or other facilities during the investigation or treatment of patients, or research projects
- A4030 Wastes from the production, formulation and use of biocides and phytopharmaceuticals, including waste

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<sup>4</sup> The 50 mg/kg level is considered to be an internationally practical level for all wastes. However, many individual countries have established lower regulatory levels (eg., 20 mg/kg) for specific wastes.

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	pesticides and herbicides which are off-specification, out-dated, <sup>5</sup> or unfit for their originally intended use
A4040	Wastes from the manufacture, formulation and use of wood-preserving chemicals <sup>6</sup>
A4050	Wastes that contain, consist of or are contaminated with any of the following: <ul style="list-style-type: none"><li>• Inorganic cyanides, excepting precious-metal-bearing residues in solid form containing traces of inorganic cyanides</li><li>• Organic cyanides</li></ul>
A4060	Waste oils/water, hydrocarbons/water mixtures, emulsions
A4070	Wastes from the production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish excluding any such waste specified on list B (note the related entry on list B B4010)
A4080	Wastes of an explosive nature (but excluding such wastes specified on list B)
A4090	Waste acidic or basic solutions, other than those specified in the corresponding entry on list B (note the related entry on list B B2120)
A4100	Wastes from industrial pollution control devices for cleaning of industrial off-gases but excluding such wastes specified on list B
A4110	Wastes that contain, consist of or are contaminated with any of the following: <ul style="list-style-type: none"><li>• Any congener of polychlorinated dibenzo-furan</li></ul>

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<sup>5</sup> “Out-dated” means unused within the period recommended by the manufacturer.

<sup>6</sup> This entry does not include wood treated with wood preserving chemicals.

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- Any congener of polychlorinated dibenzo-dioxin
- A4120 Wastes that contain, consist of or are contaminated with peroxides
- A4130 Waste packages and containers containing Annex I substances in concentrations sufficient to exhibit Annex III hazard characteristics
- A4140 Waste consisting of or containing off specification or out-dated<sup>7</sup> chemicals corresponding to Annex I categories and exhibiting Annex III hazard characteristics
- A4150 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on human health and/or the environment are not known
- A4160 Spent activated carbon not included on list B (note the related entry on list B B2060)

Annex IX

LIST B

Wastes contained in the Annex will not be wastes covered by Article 1, paragraph 1 (a), of this Convention unless they contain Annex I material to an extent causing them to exhibit an Annex III characteristic.

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<sup>7</sup> “Out-dated” means unused within the period recommended by the manufacturer.

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B1 Metal and metal-bearing wastes

- B1010 Metal and metal-alloy wastes in metallic, non-dispersible form:
- Precious metals (gold, silver, the platinum group, but not mercury)
  - Iron and steel scrap
  - Copper scrap
  - Nickel scrap
  - Aluminium scrap
  - Zinc scrap
  - Tin scrap
  - Tungsten scrap
  - Molybdenum scrap
  - Tantalum scrap
  - Magnesium scrap
  - Cobalt scrap
  - Bismuth scrap
  - Titanium scrap
  - Zirconium scrap
  - Manganese scrap
  - Germanium scrap
  - Vanadium scrap
  - Scrap of hafnium, indium, niobium, rhenium and gallium
  - Thorium scrap
  - Rare earths scrap
- B1020 Clean, uncontaminated metal scrap, including alloys, in bulk finished form (sheet, plate, beams, rods, etc), of:
- Antimony scrap
  - Beryllium scrap
  - Cadmium scrap
  - Lead scrap (but excluding lead-acid batteries)
  - Selenium scrap
  - Tellurium scrap

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B1030	Refractory metals containing residues
B1040	Scrap assemblies from electrical power generation not contaminated with lubricating oil, PCB or PCT to an extent to render them hazardous
B1050	Mixed non-ferrous metal, heavy fraction scrap, not containing Annex I materials in concentrations sufficient to exhibit Annex III characteristics <sup>8</sup>
B1060	Waste selenium and tellurium in metallic elemental form including powder
B1070	Waste of copper and copper alloys in dispersible form, unless they contain Annex I constituents to an extent that they exhibit Annex III characteristics
B1080	Zinc ash and residues including zinc alloys residues in dispersible form unless containing Annex I constituents in concentration such as to exhibit Annex III characteristics or exhibiting hazard characteristics H4.3 <sup>9</sup>
B1090	Waste batteries conforming to a specification, excluding those made with lead, cadmium or mercury
B1100	Metal-bearing wastes arising from melting, smelting and refining of metals: <ul style="list-style-type: none"><li>• Hard zinc spelter</li><li>• Zinc-containing drosses:<ul style="list-style-type: none"><li>– Galvanizing slab zinc top dross (&gt;90% Zn)</li></ul></li></ul>

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<sup>8</sup> Note that even where low level contamination with Annex I materials initially exists, subsequent processes, including recycling processes, may result in separated fractions containing significantly enhanced concentrations of those Annex I materials.

<sup>9</sup> The status of zinc ash is currently under review and there is a recommendation with United Nations Conference on Trade and Development (UNCTAD) that zinc ashes should not be dangerous goods.

- Galvanizing slab zinc bottom dross (>92% Zn)
  - Zinc die casting dross (>85% Zn)
  - Hot dip galvanizers slab zinc dross (batch) (>92% Zn)
  - Zinc skimmings
  - Aluminium skimmings (or skims) excluding salt slag
  - Slags from copper processing for further processing or refining not containing arsenic, lead or cadmium to an extent that they exhibit Annex III hazard characteristics
  - Wastes of refractory linings, including crucibles, originating from copper smelting
  - Slags from precious metals processing for further refining
  - Tantalum-bearing tin slags with less than 0.5% tin
- B1110 Electrical and electronic assemblies:
- Electronic assemblies consisting only of metals or alloys
  - Waste electrical and electronic assemblies or scrap<sup>10</sup> (including printed circuit boards) not containing components such as accumulators and other batteries included on list A, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or not contaminated with Annex I constituents (e.g., cadmium, mercury, lead, polychlorinated biphenyl) or from which these have been removed, to an extent that they do not possess any of the characteristics contained in Annex III (note the related entry on list A A1180)

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<sup>10</sup> This entry does not include scrap from electrical power generation.

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- Electrical and electronic assemblies (including printed circuit boards, electronic components and wires) destined for direct re-use,<sup>11</sup> and not for recycling or final disposal<sup>12</sup>
- B1120 Spent catalysts excluding liquids used as catalysts, containing any of:
- Transition metals, excluding waste catalysts (spent catalysts, liquid used catalysts or other catalysts) on list A:

Scandium	Titanium
Vanadium	Chromium
Manganese	Iron
Cobalt	Nickel
Copper	Zinc
Yttrium	Zirconium
Niobium	Molybdenum
Hafnium	Tantalum
Tungsten	Rhenium
  - Lanthanides (rare earth metals):

Lanthanum	Cerium
Praseodymium	Neodymium
Samarium	Europium
Gadolinium	Terbium
Dysprosium	Holmium
Erbium	Thulium
Ytterbium	Lutetium
- B1130 Clean spent precious-metal-bearing catalysts
- B1140 Precious-metal-bearing residues in solid form which contain traces of inorganic cyanides
- B1150 Precious metals and alloy wastes (gold, silver, the platinum group, but not mercury) in a dispersible,

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<sup>11</sup> Reuse can include repair, refurbishment or upgrading, but not major reassembly.

<sup>12</sup> In some countries these materials destined for direct re-use are not considered wastes.

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	non-liquid form with appropriate packaging and labelling
B1160	Precious-metal ash from the incineration of printed circuit boards (note the related entry on list A A1150)
B1170	Precious-metal ash from the incineration of photographic film
B1180	Waste photographic film containing silver halides and metallic silver
B1190	Waste photographic paper containing silver halides and metallic silver
B1200	Granulated slag arising from the manufacture of iron and steel
B1210	Slag arising from the manufacture of iron and steel including slags as a source of TiO <sub>2</sub> and vanadium
B1220	Slag from zinc production, chemically stabilized, having a high iron content (above 20%) and processed according to industrial specifications (e.g., DIN 4301) mainly for construction
B1230	Mill scaling arising from the manufacture of iron and steel
B1240	Copper oxide mill-scale
B2	<u>Wastes containing principally inorganic constituents, which may contain metals and organic materials</u>
B2010	Wastes from mining operations in non-dispersible form: <ul style="list-style-type: none"><li>• Natural graphite waste</li><li>• Slate waste, whether or not roughly trimmed or merely cut, by sawing or otherwise</li><li>• Mica waste</li><li>• Leucite, nepheline and nepheline syenite waste</li></ul>

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- Feldspar waste
  - Fluorspar waste
  - Silica wastes in solid form excluding those used in foundry operations
- B2020 Glass waste in non-dispersible form:
- Cullet and other waste and scrap of glass except for glass from cathode-ray tubes and other activated glasses
- B2030 Ceramic wastes in non-dispersible form:
- Cermet wastes and scrap (metal ceramic composites)
  - Ceramic based fibres not elsewhere specified or included
- B2040 Other wastes containing principally inorganic constituents:
- Partially refined calcium sulphate produced from flue-gas desulphurization (FDG)
  - Waste gypsum wallboard or plasterboard arising from the demolition of buildings
  - Slag from copper production, chemically stabilized, having a high iron content (above 20%) and processed according to industrial specifications (e.g. DIN 4301 and DIN 8201) mainly for construction and abrasive applications
  - Sulphur in solid form
  - Limestone from the production of calcium cyanide (having a pH less than 9)
  - Sodium, potassium, calcium chlorides
  - Carborundum (silicon carbide)
  - Broken concrete
  - Lithium-tantalum and lithium-niobium containing glass scraps
- B2050 Coal-fired power plant fly-ash, not included on list A (note the related entry on list A A2060)
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- B2060 Spent activated carbon resulting from the treatment of potable water and processes of the food industry and vitamin production (note the related entry on List A A4160)
- B2070 Calcium fluoride sludge
- B2080 Waste gypsum arising from chemical industry processes not included on list A (note the related entry on list A A2040)
- B2090 Waste anode butts from steel or aluminium production made of petroleum coke or bitumen and cleaned to normal industry specifications (excluding anode butts from chlor alkali electrolyses and from metallurgical industry)
- B2100 Waste hydrates of aluminium and waste alumina and residues from alumina production excluding such materials used for gas cleaning, flocculation or filtration processes
- B2110 Bauxite residue (“red mud”) (pH moderated to less than 11.5)
- B2120 Waste acidic or basic solutions with a pH greater than 2 and less than 11.5, which are not corrosive or otherwise hazardous (note the related entry on list A A4090)

**B3** Wastes containing principally organic constituents, which may contain metals and inorganic materials

**B3010** Solid plastic waste:

The following plastic or mixed plastic materials, provided they are not mixed with other wastes and are prepared to a specification:

- Scrap plastic on non-halogenated polymers and co-polymers, including but not limited to the following<sup>13</sup>:
  - ethylene
  - styrene
  - polypropylene
  - polyethylene terephthalate
  - acrylonitrile
  - butadiene
  - polyacetals
  - polyamides
  - polybutylene terephthalate
  - polycarbonates
  - polyethers
  - polyphenylene sulphides
  - acrylic polymers
  - alkanes C10-C13 (plasticiser)
  - polyurethane (not containing CFC's)
  - polysiloxanes
  - polymethyl methacrylate
  - polyvinyl alcohol
  - polyvinyl butyral
  - polyvinyl acetate
- Cured waste resins or condensation products including the following:
  - urea formaldehyde resins

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<sup>13</sup> It is understood that such scraps are completely polymerized.

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- phenol formaldehyde resins
  - melamine formaldehyde resins
  - epoxy resins
  - alkyd resins
  - polyamides
  - The following fluorinated polymer wastes<sup>14</sup>
    - perfluoroethylene/propylene (FEP)
    - perfluoroalkoxy alkane (PFA)
    - perfluoroalkoxy alkane (MFA)
    - polyvinylfluoride (PVF)
    - polyvinylidene fluoride (PVDF)
- B3020 Paper, paperboard and paper product wastes
- The following materials, provided they are not mixed with hazardous wastes:
- Waste and scrap of paper or paperboard of:
- unbleached paper or paperboard or of corrugated paper or paperboard
  - other paper or paperboard, made mainly of bleached chemical pulp, not coloured in the mass
  - paper or paperboard made mainly of mechanical pulp (for example newspapers, journals and similar printed matter)
  - other, including but not limited to 1) laminated paperboard 2) unsorted scrap
- B3030 Textile wastes
- The following materials, provided they are not mixed with other wastes and are prepared to a specification:
- Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock)
    - not carded or combed

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<sup>14</sup> Post-consumer wastes are excluded from this entry

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- other
    - Wastes shall not be mixed
    - Problems arising from open-burning practices to be considered
  - Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock
    - noils of wool or of fine animal hair
    - other waste of wool or of fine animal hair
    - waste of coarse animal hair
  - Cotton waste (including yarn waste and garnetted stock)
    - yarn waste (including thread waste)
    - garnetted stock
    - other
  - Flax tow and waste
  - Tow and waste (including yarn waste and garnetted stock) of true hemp (*Cannabis sativa* L.)
  - Tow and waste (including yarn waste and garnetted stock) of jute and other textile bast fibres (excluding flax, true hemp and ramie)
  - Tow and waste (including yarn waste and garnetted stock) of sisal and other textile fibres of the genus *Agave*
  - Tow, noils and waste (including yarn waste and garnetted stock) of coconut
  - Tow, noils and waste (including yarn waste and garnetted stock) of abaca (Manila hemp or *Musa textilis* Nee)
  - Tow, noils and waste (including yarn waste and garnetted stock) or ramie and other vegetable textile fibres, not elsewhere specified or included
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- Waste (including noils, yarn waste and garnetted stock) of man-made fibres
    - of synthetic fibres
    - of artificial fibres
  - Worn clothing and other worn textile articles
  - Used rags, scrap twine, cordage, rope and cables and worn out articles of twine, cordage, rope or cables of textile materials
    - sorted
    - other
- B3040 Rubber wastes
- The following materials, provided they are not mixed with other wastes:
- Waste and scrap of hard rubber (e.g. ebonite)
  - Other rubber wastes (excluding such wastes specified elsewhere)
- B3050 Untreated cork and wood waste:
- Wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms
  - Cork waste: crushed, granulated or ground cork
- B3060 Wastes arising from agro-food industries provided it is not infectious:
- Wine lees
  - Dried and sterilized vegetable waste, residues and by-products, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included
  - Degras: residues resulting from the treatment of fatty substances or animal or vegetable waxes
  - Waste of bones and horn-cores, unworked, defatted, simply prepared (but not cut to shape), treated with acid or degelatinised
  - Fish waste
-

- Cocoa shells, husks, skins and other cocoa waste
  - Other wastes from the agro-food industry excluding by-products which meet national and international requirements and standards for human or animal consumption
- B3070 The following wastes:
- Waste of human hair
  - Waste straw
  - Deactivated fungus mycelium from penicillin production to be used as animal feed
- B3080 Waste parings and scrap of rubber
- B3090 Paring and other wastes of leather or of composition leather not suitable for the manufacture of leather articles, excluding leather sludges, not containing hexavalent chromium compounds and biocides (note the related entry on list A A3100)
- B3100 Leather dust, ash, sludges or flours not containing hexavalent chromium compounds or biocides (note the related entry on list A A3090)
- B3110 Fellmongery wastes not containing hexavalent chromium compounds or biocides or infectious substances (note the related entry on list A A3110)
- B3120 Wastes consisting of food dyes
- B3130 Waste polymer ethers and waste non-hazardous monomer ethers incapable of forming peroxides
- B3140 Waste pneumatic tyres, excluding those destined for Annex IVA operations
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B4 Wastes which may contain either inorganic or organic constituents

- B4010 Wastes consisting mainly of water-based/latex paints, inks and hardened varnishes not containing organic solvents, heavy metals or biocides to an extent to render them hazardous (note the related entry on list A A4070)
- B4020 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives, not listed on list A, free of solvents and other contaminants to an extent that they do not exhibit Annex III characteristics, e.g., water based, or glues based on casein starch, dextrin, cellulose ethers, polyvinyl alcohols (note the related entry on list A A3050)
- B4030 Used single use cameras, with batteries not included on list A



## Table of Acts

**Notes to the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*****Note 1**

The *Hazardous Waste (Regulation of Exports and Imports) Act 1989* as shown in this compilation comprises Act No. 6, 1990 amended as indicated in the Tables below.

The *Hazardous Waste (Regulation of Exports and Imports) Act 1989* was amended by the *Hazardous Waste (Regulation of Exports and Imports) (Decision IV/9) Regulations 1999*. The amendments are incorporated in this compilation.

All relevant information pertaining to application, saving or transitional provisions prior to 11 June 1996 is not included in this compilation. For subsequent information *see* Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Hazardous Waste (Regulation of Exports and Imports) Act 1989</i>	6, 1990	17 Jan 1990	17 July 1990	
<i>Arts, Sport, Environment, Tourism and Territories Legislation Amendment Act (No. 2) 1991</i>	179, 1991	25 Nov 1991	25 Nov 1991	S. 3(2)
<i>Hazardous Waste (Regulation of Exports and Imports) Amendment Act 1996</i>	7, 1996	11 June 1996	11 Dec 1996	Sch. 1 (items 126-129) [see Table A]
<b>as amended by</b>				
<i>Environmental Reform (Consequential Provisions) Act 1999</i>	92, 1999	16 July 1999	Schedule 7 (item 16): (a)	—
<i>Environmental Reform (Consequential Provisions) Act 1999</i>	92, 1999	16 July 1999	Schedule 3 (items 41–45): 16 July 2000 (b)	Sch. 3 (item 45) [see Table A]
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (item 505): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (c)	—

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000</i>	137, 2000	24 Nov 2000	Ss. 1-3 and Schedule 1 (items 1, 4, 6, 7, 9-11, 32): Royal Assent Remainder: 24 May 2001	Sch. 2 (items 418, 419) [see Table A]
<i>Environment and Heritage Legislation Amendment (Application of Criminal Code) Act 2001</i>	15, 2001	22 Mar 2001	S. 4 and Schedule 1 (items 73-95): 24 May 2001 (d)	S. 4 [see Table A]
<i>Environmental Legislation Amendment Act 2001</i>	118, 2001	18 Sept 2001	S. 4 and Schedule 1: 16 Oct 2001 (e)	S. 4 [see Table A]
<i>Customs Legislation Amendment (Name Change) Act 2009</i>	33, 2009	22 May 2009	Schedule 2 (item 35): 23 May 2009	—
<i>Territories Law Reform Act 2010</i>	139, 2010	10 Dec 2010	Schedule 1 (item 67): 11 Dec 2010	—
<i>Statute Law Revision Act 2011</i>	5, 2011	22 Mar 2011	Schedule 7 (item 62): 19 Apr 2011	—



**Act Notes**

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- (a) The *Hazardous Waste (Regulation of Exports and Imports) Amendment Act 1996* was amended by Schedule 7 (item 16) only of the *Environmental Reform (Consequential Provisions) Act 1999*, subsection 2(3) of which provides as follows:
- (3) The amendment of the *Hazardous Waste (Regulation of Exports and Imports) Amendment Act 1996* in Schedule 7 to this Act is taken to have commenced immediately after that Act received the Royal Assent.
- (b) The *Hazardous Waste (Regulation of Exports and Imports) Act 1989* was amended by Schedule 3 only of the *Environmental Reform (Consequential Provisions) Act 1999*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences when the *Environment Protection and Biodiversity Conservation Act 1999* commences.
- (c) The *Hazardous Waste (Regulation of Exports and Imports) Act 1989* was amended by Schedule 1 (item 505) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
- (2) Subject to this section, this Act commences at the commencing time.
- (d) The *Hazardous Waste (Regulation of Exports and Imports) Act 1989* was amended by Schedule 1 (items 73–95) only of the *Environment and Heritage Legislation Amendment (Application of Criminal Code) Act 2001*, subsection 2(1)(c) of which provides as follows:
- (1) Subject to this section, this Act commences on the latest of the following days:
- (c) the day on which item 15 of Schedule 1 to the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000* commences.
- (e) The *Hazardous Waste (Regulation of Exports and Imports) Act 1989* was amended by Schedule 1 only of the *Environmental Legislation Amendment Act 2001*, subsection 2(2) of which provides as follows:
- (2) Section 4 and Schedule 1 commence on the 28th day after the day on which this Act receives the Royal Assent.



**Table of Amendments****Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision affected	How affected
Title .....	am. No. 7, 1996
<b>Part 1</b>	
<b>Division 1</b>	
S. 3 .....	rs. No. 7, 1996
<b>Division 2</b>	
S. 4 .....	am. No. 7, 1996; No. 118, 2001
Ss. 4A–4G .....	ad. No. 7, 1996
S. 5 .....	rep. No. 7, 1996
Heading to s. 6 .....	am. No. 7, 1996 rep. No. 92, 1999
S. 6 .....	am. No. 7, 1996 rep. No. 92, 1999
S. 7 .....	am. No. 7, 1996
S. 8 .....	am. No. 15, 2001
<b>Division 3</b>	
S. 10A .....	ad. No. 15, 2001
S. 11 .....	am. No. 92, 1999
<b>Part 2</b>	
<b>Division 1</b>	
Heading to Part 2 .....	rs. No. 7, 1996
Heading to Div. 1 of Part 2 .....	rs. No. 7, 1996
Ss. 12, 13 .....	am. No. 7, 1996
Ss. 13A, 13B .....	ad. No. 7, 1996
<b>Division 2</b>	
Div. 2 of Part 2 .....	ad. No. 7, 1996
S. 13C .....	ad. No. 7, 1996 am. No. 118, 2001
Ss. 13D–13F .....	ad. No. 7, 1996
<b>Division 3</b>	
Heading to Div. 3 of Part 2 .....	ad. No. 7, 1996
Heading to s. 14 .....	am. No. 7, 1996
S. 14 .....	am. No. 7, 1996
S. 15A .....	ad. No. 7, 1996
Heading to s. 16 .....	am. No. 7, 1996
S. 16 .....	am. No. 7, 1996; No. 92, 1999
Heading to s. 17 .....	am. No. 7, 1996
S. 17 .....	am. No. 7, 1996
S. 17A .....	ad. No. 7, 1996
S. 18 .....	am. No. 7, 1996

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision affected	How affected
Ss. 18A, 18B .....	ad. No. 7, 1996
S. 19 .....	am. No. 7, 1996
S. 19A .....	ad. No. 7, 1996
Heading to s. 20 .....	am. No. 7, 1996
S. 20 .....	am. No. 7, 1996
Heading to s. 21 .....	am. No. 7, 1996
S. 21 .....	am. No. 7, 1996
S. 21A .....	ad. No. 7, 1996
Heading to s. 22 .....	am. No. 7, 1996
S. 22 .....	am. No. 7, 1996
S. 23 .....	rep. No. 7, 1996
<b>Division 4</b>	
Heading to Div. 2 of Part 2.....	rep. No. 7, 1996
Heading to Div. 4 of Part 2.....	ad. No. 7, 1996
Heading to s. 24 .....	am. No. 7, 1996
S. 24 .....	am. No. 7, 1996
Heading to s. 25 .....	am. No. 7, 1996
S. 25 .....	am. No. 7, 1996
Heading to s. 26 .....	am. No. 7, 1996
S. 26 .....	am. No. 7, 1996
Heading to s. 27 .....	am. No. 7, 1996
S. 27 .....	am. No. 7, 1996
S. 28A .....	ad. No. 7, 1996
S. 29 .....	am. No. 7, 1996; No. 92, 1999
S. 30 .....	am. No. 7, 1996
<b>Division 5</b>	
Heading to Div. 3 of Part 2.....	rep. No. 7, 1996
Heading to Div. 5 of Part 2 .....	ad. No. 7, 1996
S. 32 .....	am. No. 179, 1991; No. 7, 1996
S. 33 .....	am. No. 7, 1996 (as am. by No. 92, 1999)
<b>Part 3</b>	
Ss. 34, 35 .....	am. No. 118, 2001
S. 35A .....	ad. No. 7, 1996 am. No. 118, 2001
S. 36 .....	am. No. 7, 1996
Heading to s. 37 .....	am. No. 7, 1996
S. 37 .....	am. No. 7, 1996
S. 38 .....	am. No. 118, 2001
Ss. 38A, 38B .....	ad. No. 118, 2001

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision affected	How affected
<b>Part 4</b>	
Heading to Part 4 .....	rs. No. 7, 1996; No. 118, 2001
Subhead to s. 39(4) .....	am. No. 15, 2001
Subhead to s. 39(6) .....	am. No. 15, 2001
S. 39 .....	rs. No. 7, 1996 am. No. 15, 2001
Subhead to s. 40(3) .....	am. No. 15, 2001
Subhead to s. 40(5) .....	am. No. 15, 2001
S. 40 .....	rs. No. 7, 1996 am. No. 15, 2001
Subhead to s. 40A(3) .....	am. No. 15, 2001
Subhead to s. 40A(5) .....	am. No. 15, 2001
S. 40A .....	ad. No. 7, 1996 am. No. 15, 2001
S. 40AA .....	ad. No. 118, 2001
S. 40B .....	ad. No. 7, 1996 am. No. 118, 2001
S. 41 .....	am. No. 7, 1996; No. 118, 2001
<b>Part 4A</b>	
Part 4A .....	ad. No. 7, 1996
S. 41A .....	ad. No. 7, 1996 am. No. 15, 2001
Ss. 41B, 41C .....	ad. No. 7, 1996
<b>Part 5</b>	
S. 42 .....	am. No. 139, 2010
Note to s. 42(3) .....	ad. No. 7, 1996 am. No. 33, 2009
S. 43 .....	am. No. 15, 2001
S. 45 .....	am. No. 7, 1996; No. 15, 2001
S. 48 .....	am. No. 15, 2001
Heading to s. 52 .....	am. No. 7, 1996
S. 52 .....	am. No. 7, 1996; No. 15, 2001
S. 52A .....	ad. No. 7, 1996
S. 53 .....	am. No. 15, 2001
S. 54 .....	am. No. 15, 2001 rep. No. 137, 2000
S. 55 .....	am. No. 7, 1996 rep. No. 137, 2000
S. 56 .....	am. No. 7, 1996
<b>Part 5A</b>	
Part 5A .....	ad. No. 7, 1996
S. 56A .....	ad. No. 7, 1996
<b>Part 6</b>	
S. 57 .....	am. No. 7, 1996

## Table of Amendments

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ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision affected	How affected
Ss. 58A-58E .....	ad. No. 7, 1996
Ss. 59A, 59B .....	ad. No. 7, 1996
S. 60 .....	am. No. 146, 1999; No. 5, 2011
S. 62 .....	am. No. 7, 1996
Part 7 .....	rep. No. 7, 1996
Ss. 63, 64 .....	rep. No. 7, 1996
<b>Schedule</b>	
Schedule .....	am. No. 7, 1996; Statutory Rules 1999 No. 102

**Table A**

**Application, saving or transitional provisions**

*Hazardous Waste (Regulation of Exports and Imports) Amendment Act 1996*  
(No. 7, 1996)

**Schedule 1**

**126 Transitional—continued application of old law to pre-commencement applications and permits etc.**

- (1) This item applies to:
  - (a) an application under Part 2 of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* if:
    - (i) the application was received by the Minister before the commencement of this item; and
    - (ii) the Minister did not make a decision on the application before the commencement of this item; and
  - (b) a statutory permit granted before the commencement of this item.
- (2) Despite the following amendments made by this Act;
  - (a) the amendments of Part 2 of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* (other than the amendments made by items 82 and 85);
  - (b) the amendments of Part 1 of that Act, in so far as they relate to Part 2 of that Act;

that Act continues to apply, in relation to such an application or permit, as if those amendments had not been made.

**127 Transitional—pre-commencement permits etc. to lapse after 12 months**

- (1) This item applies to a statutory permit if the permit was:
  - (a) granted before the commencement of this item; or
  - (b) applied for before the commencement of this item and granted after the commencement of this item.

**Table A**

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- (2) Despite anything in the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*, the permit does not authorise an import or export that takes place more than 12 months after the commencement of this item.

**128 Transitional—revocation and surrender of permits**

To avoid doubt, the amendments made by items 82 and 85 do not affect the interpretation of subsection 24(2) or 25(2) of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* as in force at any time before the commencement of those items.

**129 Transitional—amendment of the *Customs Act 1901* not affected by repeal of Part 7 of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989***

The repeal of Part 7 of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* made by this Act does not affect the operation of an amendment made by the repealed Part.

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*Environmental Reform (Consequential Provisions) Act 1999* (No. 92, 1999)

**Schedule 3**

**45 Application**

The amendments of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* made by this Schedule apply in relation to applications for Basel permits, and for variations of Basel permits, made after the commencement of the *Environment Protection and Biodiversity Conservation Act 1999*.

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*Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences)  
Act 2000 (No. 137, 2000)*

**Schedule 2**

**418 Transitional—pre-commencement offences**

- (1) Despite the amendment or repeal of a provision by this Schedule, that provision continues to apply, after the commencement of this item, in relation to:
- (a) an offence committed before the commencement of this item; or
  - (b) proceedings for an offence alleged to have been committed before the commencement of this item; or
  - (c) any matter connected with, or arising out of, such proceedings;
- as if the amendment or repeal had not been made.
- (2) Subitem (1) does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

**419 Transitional—pre-commencement notices**

If:

- (a) a provision in force immediately before the commencement of this item required that a notice set out the effect of one or more other provisions; and
  - (b) any or all of those other provisions are repealed by this Schedule; and
  - (c) the first-mentioned provision is amended by this Schedule;
- the amendment of the first-mentioned provision by this Schedule does not affect the validity of such a notice that was given before the commencement of this item.
-

**Table A**

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*Environment and Heritage Legislation Amendment (Application of Criminal Code) Act 2001* (No. 15, 2001)

**4 Application of amendments**

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

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*Environmental Legislation Amendment Act 2001* (No. 118, 2001)

**4 Application—orders**

The amendment made by item 8 of Schedule 1 applies in relation to orders made after the commencement of that item.