



Recycling and Waste Reduction (Export— Waste Glass) Rules 2020

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

Dated 16 December 2020

Sussan Ley
Minister for the Environment

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Part 1—Preliminary

1 Name

This instrument is the *Recycling and Waste Reduction (Export—Waste Glass) Rules 2020*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 January 2021.	1 January 2021

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under the *Recycling and Waste Reduction Act 2020*.

4 Definitions

In this instrument:

- Note: A number of expressions used in this instrument are defined in the Act, including the following:
- (a) export declaration;
 - (b) export licence;
 - (c) export operations;
 - (d) prescribed export conditions;
 - (e) regulated waste material.

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

listed waste glass specification means a waste glass specification, as existing from time to time, that is listed on the Department's website.

regulated waste glass means waste glass that is prescribed under section 5.

trade sample: see subsection 15(3).

waste glass: see subsection 5(2).

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waste glass export licence means an export licence to carry out export operations in relation to regulated waste glass.

waste glass specification means a written industry specification or standard that relates to the manufacture, processing or supply of waste glass.

Part 2—Exporting waste glass

Division 1—General

5 Waste glass is regulated waste material

- (1) For the purposes of subsection 17(1) of the Act, waste glass is prescribed.

Note: Waste glass that is prescribed under this section is *regulated waste glass*.

- (2) *Waste glass* means:
- (a) glass that is discarded, rejected or left over from an industrial, commercial, domestic or other activity; or
 - (b) glass that is surplus to or a by-product of an industrial, commercial, domestic or other activity.
- (3) Despite subsection (1), the following kinds of waste glass are not prescribed for the purposes of subsection 17(1) of the Act:
- (a) waste glass that is exported for personal or domestic use;
 - (b) waste glass that is imported into Australia on a temporary basis and is re-exported in the same covering and with the same trade description (within the meaning of the *Commerce (Trade Descriptions) Act 1905*) with which it was imported.

6 Prescribed export conditions for regulated waste glass

- (1) This section is made for the purposes of section 18 of the Act.
- (2) The export of regulated waste glass is prohibited unless:
- (a) the exporter holds a waste glass export licence that covers the regulated waste glass; and
 - (b) the waste glass export licence is in force and not suspended at the time the regulated waste glass is exported; and
 - (c) for each consignment of regulated waste glass that is exported—the exporter gives the Minister an export declaration for the consignment of the regulated waste glass and the consignment is exported no later than 30 days after the export declaration is given.

Note: Contravention of one or more of these conditions is an offence and a civil penalty provision (see section 20 of the Act).

Division 2—Waste glass export licences

7 Application for waste glass export licence

- (1) For the purposes of paragraphs 172(1)(c) and (d) of the Act, this section prescribes:
 - (a) the information that must be included in an application for a waste glass export licence; and
 - (b) the documents that must accompany an application for a waste glass export licence.
- (2) The application must nominate a waste glass specification with which the regulated waste glass will comply.
- (3) If the nominated specification is not a listed waste glass specification, the application must be accompanied by:
 - (a) a copy of the nominated specification; and
 - (b) information demonstrating that the regulated waste glass intended for export under the export licence will be processed prior to export to comply with the specification.

8 Matters to which the Minister must have regard in deciding whether to grant a waste glass export licence

For the purposes of paragraph 34(2)(f) of the Act, the Minister must have regard to the following matters:

- (a) evidence of any commercial relationship between the applicant and potential importers of the regulated waste glass intended for export under the waste glass export licence;
- (b) the equipment or machinery that will be used to process the regulated waste glass intended for export under the waste glass export licence;
- (c) the intended use of the regulated waste glass in the place to which the glass is intended to be exported;
- (d) if the applicant is not the supplier of the regulated waste glass intended for export under the waste glass export licence—the commercial relationships between the applicant and supplier of the glass;
- (e) if the licence (if granted) would not include conducting operations to produce, or prepare, the regulated waste glass for export—the commercial relationships between the applicant and persons who will conduct operations to produce, or prepare, the regulated waste glass intended for export;
- (f) if the application nominates a waste glass specification other than a listed waste glass specification—whether the nominated specification meets the objects of the Act;
- (g) whether the applicant for the waste glass export licence is capable of complying with the waste glass specification nominated for the purposes of subsection 7(2);
- (h) whether the waste glass will be processed, prior to export, to comply with the waste glass specification nominated for the purposes of subsection 7(2);

- (i) whether the waste glass specification nominated for the purposes of subsection 7(2) is appropriate for the intended use of the waste glass in the place to which the glass is intended to be exported.

Note: Other matters to which the Minister must have regard are specified in paragraphs 34(2)(a) to (e) of the Act. The Minister may also have regard to any other matter that the Minister considers relevant (see subsection 34(3) of the Act).

9 Conditions of waste glass export licence

- (1) For the purposes of paragraph 35(1)(b) of the Act, this section prescribes conditions of a waste glass export licence.

Note 1: A waste glass export licence is also subject to:

- (a) the conditions (if any) specified in the licence under paragraph 35(1)(c) of the Act; and
- (b) the condition that the holder of the licence must comply with any directions given to the holder under section 64 of the Act.

Note 2: The holder of a waste glass export licence may commit an offence or be liable to a civil penalty if a condition of the licence is contravened (see section 59 of the Act).

Note 3: Conditions, and any other aspect of a waste glass export licence, may be varied either on application by the licence holder or by the Minister on his or her own initiative (see Part 6 of Chapter 2 of the Act).

- (2) The holder of the waste glass export licence must, for each consignment of regulated waste glass intended for export under the licence:
- (a) ensure that the regulated waste glass complies, prior to export, with the waste glass specification nominated for the purposes of subsection 7(2); and
 - (b) have a commercial relationship with the importer of the regulated waste glass.

Note: The holder of a waste glass export licence may be required to produce to the Minister evidence of the matters mentioned in this section (see section 143 of the Act).

- (3) If the holder of the waste glass export licence is not the supplier of the regulated waste glass intended for export, the holder must have a commercial relationship with the supplier of the regulated waste glass.
- (4) The holder of the waste glass export licence must, for each consignment of regulated waste glass intended for export under the licence:
- (a) take a photograph of the regulated waste glass in the consignment; and
 - (b) ensure that the photograph:
 - (i) has sufficient resolution, brightness and contrast to show the regulated waste glass clearly; and
 - (ii) is time and date stamped.
- (5) If the waste glass export licence specifies a place to which the regulated waste glass covered by the licence may be exported, the holder of the waste glass export licence must export the regulated waste glass only to that place.
- (6) The holder of the waste glass export licence must notify the Minister, in the form approved by the Minister, if any of the following changes occur:

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- (a) if the holder of the waste glass export licence is not the supplier of the regulated waste glass covered by the licence—a change in the supplier of the regulated waste glass covered by the licence;
 - (b) if the holder of the waste glass export licence uses a freight forwarder or other agent to export the regulated waste glass covered by the licence—a change in the freight forwarder or other agent used;
 - (c) a change in the importer of the regulated waste glass covered by the licence.
- (7) A notification required to be given under subsection (6) must be given as soon as practicable after the change occurs.

10 Renewal of waste glass export licence

For the purposes of paragraph 38(4)(a) of the Act, an application for renewal of a waste glass export licence must be made no later than 30 days before the expiry date for the licence.

Note: An application to renew a waste glass export licence can only be made if there is an expiry date for the licence (see subsection 38(1) of the Act). Some licences remain in force until the happening of a specified event (see paragraph 34(4)(a) of the Act).

11 Suspension of waste glass export licence

- (1) For the purposes of paragraph 46(1)(i) of the Act, this section prescribes grounds for suspending a waste glass export licence.

Note: Other grounds for suspending a waste glass export licence are specified in paragraphs 46(1)(a) to (h) of the Act.

- (2) It is a ground for suspension that:
- (a) the holder of the licence was required to comply with subsection 60(2) of the Act (requirement to provide additional or corrected information) in relation to:
 - (i) information included in an application relating to the licence; or
 - (ii) information or a document given in relation to such an application;and
 - (b) the holder failed to comply with the requirement.

12 Revocation of waste glass export licence

- (1) For the purposes of paragraph 54(1)(i) of the Act, this section prescribes grounds for revoking a waste glass export licence.

Note: Other grounds for revoking a waste glass export licence are specified in paragraphs 54(1)(a) to (h) of the Act.

- (2) It is a ground for revocation that:
- (a) the holder of the licence was required to comply with subsection 60(2) of the Act (requirement to provide additional or corrected information) in relation to:
 - (i) information included in an application relating to the licence; or
 - (ii) information or a document in relation to such an application; and
 - (b) the holder failed to comply with the requirement.

13 Holder of export licence to notify the Minister of certain events

For the purposes of paragraph 61(1)(e) of the Act, the holder of the licence ceasing to operate the export business that carries out export operations covered by the licence is prescribed.

14 Directions to holders of waste glass export licences

For the purposes of paragraph 64(3)(b) of the Act, a matter to which the Minister must have regard is whether the Minister is satisfied of one or more of the following:

- (a) a condition of the waste glass export licence has been contravened, or it is likely that such a condition will be contravened;
- (b) the holder of the waste glass export licence has not complied, or is likely not to comply, with a requirement under the Act;
- (c) the regulated waste glass covered by the licence does not comply, or is likely not to comply, with a requirement under the Act that applies in relation to the waste glass.

Division 3—Exemptions

15 Requirements for granting an exemption

- (1) For the purposes of paragraph 26(2)(a) of the Act, the requirements in this section are prescribed.
- (2) If the application for an exemption relates to the export of a trade sample of regulated waste glass, the applicant must nominate a waste glass specification with which the regulated waste glass will comply.
- (3) A *trade sample* of regulated waste glass is waste glass that is exported solely for the purposes of market testing.

16 Matters to which the Minister must have regard in deciding whether the Minister is satisfied it is appropriate to grant the exemption

- (1) For the purposes of subsection 26(2) of the Act, the matters in this section are prescribed.
- (2) If the application for an exemption relates to the export of a trade sample of regulated waste glass, the matters are as follows:
 - (a) whether the waste glass specification nominated for the purposes of section 15:
 - (i) is a listed waste glass specification; or
 - (ii) is a waste glass specification other than a listed waste glass specification;
 - (b) if subparagraph (a)(ii) applies—whether the nominated specification meets the objects of the Act;
 - (c) whether the applicant is capable of complying with the nominated specification;
 - (d) whether the waste glass will be processed to comply, prior to export, with the nominated specification;
 - (e) whether the nominated specification is appropriate for the intended use of the waste glass in the place to which the glass is intended to be exported.

17 Revocation of exemption

- (1) This section is made for the purposes of paragraph 31(2)(b) of the Act (about matters the Minister must have regard to in considering whether to revoke an exemption).
- (2) The matter is whether the holder of the exemption has contravened or is contravening a condition of the exemption.

Division 4—Record-keeping

18 Making and retaining records

- (1) This section is made for the purposes of section 142 of the Act.
- (2) The holder of a waste glass export licence must make and retain the following records:
 - (a) for each consignment of regulated waste glass that is exported under the licence:
 - (i) the export declaration made for the consignment; and
 - (ii) evidence supporting the matters stated in the export declaration; and
 - (iii) the photograph taken under subsection 9(4);
 - (b) each other document:
 - (i) that is made by the holder or that comes into the holder's possession; and
 - (ii) that is relevant to showing whether the holder has complied, or is complying, with the applicable requirements of the Act.
- (3) The holder of the waste glass export licence must retain each of the records for at least 5 years starting on the day the record is made by the holder or comes into the holder's possession (as the case may be).
- (4) A record that is required to be retained under this section must be:
 - (a) subject to subsection (5)—in English; and
 - (b) dated; and
 - (c) accurate, legible and able to be audited.
- (5) If the record is not in English, the holder of the waste glass export licence must obtain and retain a translation of the record into English.

19 Records must not be altered or defaced during retention period

- (1) A record that is retained as required under section 18 must not be altered or defaced during the period (the *retention period*) in which it is required to be retained.
- (2) However, subsection (1) does not prevent notations or markings being made on the record in accordance with ordinary practice.
- (3) If, during the retention period, notations or markings are made on the record (the *original record*) in accordance with ordinary practice, the person who is required to retain the original record must also retain, during the retention period, each document:
 - (a) that the person creates or that comes into the person's possession; and
 - (b) that shows how the original record was changed.

Division 5—Other matters

20 Circumstances in which relevant Commonwealth liability of a person is taken to have been paid

Purpose of this section

- (1) For the purposes of section 181 of the Act, this section prescribes circumstances in which a relevant Commonwealth liability of a person is taken to have been paid for the purposes of any of the following provisions (a **relevant provision**) of the Act:
 - (a) paragraph 34(2)(c) (grant of export licence);
 - (b) paragraph 39(3)(c) (renewal of export licence);
 - (c) paragraph 42(4)(b) (variation of export licence).

Payment undertaking

- (2) A relevant Commonwealth liability of a person is taken to have been paid for the purposes of a relevant provision if:
 - (a) the person, or another person, has given a written undertaking (a **payment undertaking**) to the Minister to pay the amount of the relevant Commonwealth liability; and
 - (b) the payment undertaking includes a term that the relevant Commonwealth liability is to be reduced by each amount paid in accordance with the undertaking; and
 - (c) the Minister has accepted the payment undertaking, having considered the following matters:
 - (i) the financial position of the person who gave the payment undertaking;
 - (ii) the nature and likely cost of the export operations to which a decision under the relevant provision relates;
 - (iii) whether the person who gave the payment undertaking will be able to comply with the undertaking and, if applicable, meet the cost of the export operations referred to in subparagraph (ii);
 - (iv) any other relevant considerations.
- (3) If:
 - (a) a payment undertaking relates to 2 or more relevant Commonwealth liabilities; or
 - (b) a person has given 2 or more payment undertakings in relation to different relevant Commonwealth liabilities of the person or of another person;the Minister may determine the order in which payments are to be applied to reduce the outstanding relevant Commonwealth liabilities.

Variation of payment undertaking

- (4) A payment undertaking may be varied at any time by agreement between the Minister and the person who gave the undertaking.

- (5) The variation must not reduce the amount of any relevant Commonwealth liability covered by the undertaking that has not been paid.