

# **Hazardous Waste (Regulation of Exports and Imports) Regulations 1996 No. 284**

## EXPLANATORY STATEMENT

Statutory Rules 1996 No. 284

Issued by the Authority of the Minister for Environment

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

Hazardous Waste (Regulation of Exports and Imports) Regulations

Section 62 of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 4 of the *Acts Interpretation Act 1901* provides for the exercise of statutory powers between passing and commencement of the Act. The *Hazardous Waste (Regulation of Exports and Imports) Amendment Act 1996* will amend the Act and is due to commence on 12 December 1996.

These Regulations specify such matters, with the exception of the fees to be charged and the implementation of the OECD Council Decision, which are the subject of separate Regulations.

Section 4 of the Act states that household wastes are waste collected from households, but not including waste specified in the regulations.

Sub-sections 15A(3) and 28A(2) of the Act state that when an application is received to export hazardous waste to a foreign country, the Minister must give the competent authority of that country such information as is specified in the regulations.

The purpose of the Regulations is to specify wastes that are collected from households but which are to be excluded from the definition of household wastes because they are not hazardous, to specify the information to be given to a foreign country about a proposed export of hazardous waste and to allow the Minister to approve specific waste recovery facilities in Australia. That approval will allow a streamlined process for applications to import hazardous waste for recycling or reclamation of useful materials.

Details of the Regulations are as follows:

Regulation 1 is a citation provision.

Regulation 2 provides that the Regulations commence on 12 December 1996.

Regulation 3 provides definitions for key concepts which appear in these regulations for the purposes of interpretation.

Regulation 4 relates specifically to the definition of "household wastes" in Section 4 of the Act which does not include waste specified in the regulations. This regulation excludes from control specific categories of waste specified in List B. List B is a list prepared by the Technical Working

Group, a subsidiary body of the Conference of the Parties to the Basel Convention, United Nations Environment Programme. Wastes on this list do not exhibit hazardous characteristics listed in Annex III to the Basel Convention and should not be considered hazardous simply because they were collected from households.

Regulations 5 and 6 give effect to the requirements under subsections 15A(3) and 28A(2) of the Act, that the Minister must provide information prescribed in the Regulations to foreign countries. The provisions ensure that Australia will be able to meet its obligations under the Basel Convention, to provide a foreign country with information about the effects of a proposed export of hazardous waste on human health and the environment. They relate to Basel export permits and variations to Basel export permits respectively and specify that the type of information to be provided to countries to which waste is being exported is set out in Annex VA of the Basel Convention.

Regulation 7 allows the Minister to approve a recovery facility within Australia to recover material, listed in Annex I of the Basel Convention, by recycling or reclamation. The recovery facility must operate in a manner which is consistent with Australia's Basel Convention obligations, otherwise the Minister is not legally obliged to approve the facility. This provision does not change the notification and consent procedure or the time in which a decision will be made, but allows a streamlined process.

Regulation 8 provides that if the Minister refuses to approve a recovery facility, under Regulation 7, an appeal may be lodged under the *Administrative Appeals Tribunal Act 1974* to review that decision.