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Customs (Prohibited Exports) Amendment Regulations 2002 (No. 5)¹

Statutory Rules 2002 No. 5²

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I, PETER JOHN HOLLINGWORTH, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Customs Act 1901*.

Dated 19 DEC 2002 2002

PETER HOLLINGWORTH
Governor-General

By His Excellency's Command

CHRISTOPHER MARTIN ELLISON
Minister for Justice and Customs

1 Name of Regulations

These Regulations are the *Customs (Prohibited Exports) Amendment Regulations 2002 (No. /)*.

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2 Commencement

These Regulations commence on 1 January 2003.

3 Amendment of *Customs (Prohibited Exports) Regulations 1958*

Schedule 1 amends the *Customs (Prohibited Exports) Regulations 1958*.

Schedule 1 Amendments

(regulation 3)

[1] Part 3, Division 1, heading

substitute

Division 1 Miscellaneous prohibited exports

[2] After regulation 9

insert

9AA Exportation of rough diamonds

(1) In this regulation:

authorised person means an employee of the Department of Industry, Tourism and Resources authorised in writing by the Minister for this regulation.

country includes an international organisation of states or a dependent territory of a country.

Interlaken Declaration means the Interlaken Declaration of 5 November 2002 on the Kimberley Process Certification Scheme for Rough Diamonds.

Kimberley Process means the international certification arrangement for rough diamonds adopted under the Interlaken Declaration.

Kimberley Process Certificate means a certificate that meets the minimum requirements for certificates specified in Part A of Annex 1 of the document known as the Kimberley Process Certification Scheme which accompanied the Interlaken Declaration.

Minister means the Minister for Industry, Tourism and Resources.

original certificate means the original Kimberley Process Certificate issued under subregulation (3).

Participant means a country that is a Participant in the Kimberley Process.

rough diamonds means diamonds that:

- (a) are unworked or simply sawn, cleaved or bruted; and
 - (b) are classified under heading 7102.10.00, 7102.21.00 or 7102.31.00 of Schedule 3 to the *Customs Tariff Act 1995*.
- (2) The exportation from Australia of rough diamonds is prohibited unless:
- (a) the exporter holds a permission under this regulation; and
 - (b) the original certificate is produced to a Collector at or before the time of exportation; and
 - (c) the rough diamonds are exported in a tamper resistant container.
- (3) The Minister, or an authorised person, may, on application, grant a permission for the exportation of rough diamonds to a country by issuing a Kimberley Process Certificate.
- (4) A permission:
- (a) may be granted only if the country is a Participant; and
 - (b) ceases to be in force if the country ceases to be a Participant.

- (5) A permission granted under this regulation is subject to the following conditions:
 - (a) any condition notified in writing to the applicant at the time the permission is granted;
 - (b) any condition specified on the Kimberley Process Certificate.
- (6) If the holder of a permission fails to comply with a condition of the permission, the Minister, or an authorised person, in writing, may revoke the permission.
- (7) The Minister, or an authorised person, may revoke a permission whether or not the holder of the permission is charged with an offence against subsection 112 (2B) of the Act for failure to comply with the permission.
- (8) The holder of a permission must:
 - (a) retain a copy of the original certificate for a period of 5 years after the time of exportation; and
 - (b) produce a copy of the original certificate to an employee of the Department of Industry, Tourism and Resources if requested to do so within that period.

[3] Subregulation 13CA (1), at the foot

insert

Note For the exportation of rough diamonds, regulation 9AA must also be complied with.

Notes

1. These Regulations amend Statutory Rules 1958 No. 5, as amended by 1959 No. 5; 1961 Nos. 16 and 112; 1963 Nos. 129 and 130; 1964 No. 144; 1965 No. 136; 1966 Nos. 70 and 75; 1967 Nos. 42, 59 and 123; 1968 Nos. 46, 83, 101, 153, 160 and 162; 1969 Nos. 11, 21, 22 and 219; 1970 Nos. 34, 68, 89, 106 and 121; 1972 No. 210; 1973 Nos. 4, 7, 39, 74, 102, 138, 218 and 248; 1974 Nos. 46, 157, 178 and 250; 1975 Nos. 19, 44, 45, 173 and 224; 1976 Nos. 169 and 233; 1977 No. 89; 1978 Nos. 14, 58, 59 and 277; 1979 Nos. 160 and 237; 1980 Nos. 21, 61, 72, 76, 82, 99, 110, 212, 273, 358, 381 and 383; 1981 Nos. 49, 72, 86, 149, 225, 251 and 324; 1982 Nos. 169, 171 and 310; 1983 No. 272; 1984 Nos. 35, 63, 191, 262, 263 and 316; 1985 Nos. 1, 68, 138 and 378; 1986 Nos. 76, 89, 177, 178, 328, 364, 365, 366 and 388; 1987 Nos. 97, 115, 156, 176, 301, 317, 318 and 319; 1988 Nos. 65, 178, 195 and 361; 1989 Nos. 57, 59, 196, 264 and 388; 1990 Nos. 125, 146, 190, 264, 333 and 438; 1991 Nos. 24, 77, 118, 288 and 413; 1992 Nos. 61, 83, 103, 155, 412 and 414; 1993 Nos. 68, 212, 258 and 322; 1994 Nos. 32, 143, 172, 242, 313, 379, 392 and 417; 1995 Nos. 71 and 90; 1996 Nos. 32, 47, 48, 49, 50 (Statutory Rules 1996 Nos. 47, 48, 49 and 50 were disallowed by the Senate on 23 May 1996), 69, 225, 281 and 282; 1997 Nos. 30, 31, 32, 33, 380, 381, 382 and 383; 1998 No. 211; 1999 Nos. 9, 164, 200, 216, 248, 274 and 331; 2000 Nos. 211 and 212; 2001 No. 171; 2002 Nos. 29, 139, 204 and 205.
2. Notified in the *Commonwealth of Australia Gazette* on / 2002. 20 December