



Recycling and Waste Reduction (Product Stewardship—Accreditation of Voluntary Arrangements) 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 (Product Stewardship—Accreditation of Voluntary Arrangements) 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	The later of: (a) the start of the day after this instrument is registered; and (b) the commencement of the <i>Recycling and Waste Reduction Act 2020</i> .	17 December 2020 (paragraph (a) applies)

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

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

4 Simplified outline of this instrument

The administrator of a voluntary arrangement may apply to the Minister for accreditation of the arrangement in relation to a product. Accredited voluntary arrangements further the objects of the Act by achieving measurable outcomes relating to the product and allow certain persons to use a product stewardship logo in connection with the product.

The Minister must have regard to certain matters in deciding whether to accredit a voluntary arrangement, and can accredit the arrangement only if satisfied of certain matters. The Minister must refuse to accredit an arrangement on various grounds, including if the Minister is satisfied that an outcome of the arrangement will not further the objects of the Act.

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Accreditation of an arrangement lasts for up to 5 years, and may be subject to conditions. The accreditation of an arrangement may also be varied, including to vary conditions or impose new conditions.

The administrator of an accredited voluntary arrangement has various obligations, including:

- (a) notifying the Minister of certain events affecting the arrangement; and
- (b) reporting annually to the Minister on the operation of the arrangement; and
- (c) publishing a description of the arrangement.

The Minister must cancel the accreditation of a voluntary arrangement if the product to which the arrangement relates is no longer sold in more than one State or Territory.

The Minister may cancel the accreditation of a voluntary arrangement on request by the administrator or on various other grounds, including:

- (a) failure by the administrator to comply with its obligations; and
- (b) failure to meet conditions on the accreditation; and
- (c) the administrator not being a fit and proper person.

5 Definitions

In this instrument:

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) accredited voluntary arrangement;
- (b) administrator;
- (c) product stewardship logo.

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

condition in relation to an accredited voluntary arrangement means a condition imposed under section 12 (including as varied under section 14 or 15) on the accreditation of the arrangement in relation to a product.

outcome of a voluntary arrangement means a measurable result relating to a product, to be achieved by the arrangement, that furthers any of the objects of the Act.

Part 2—Accreditation of voluntary arrangements

Division 1—Introduction

6 Introduction

For the purposes of section 70 of the Act, this Part provides for matters relating to the accreditation of voluntary arrangements in relation to a product.

Division 2—Applications for accreditation of voluntary arrangements

7 Application for accreditation of a voluntary arrangement

- (1) The administrator of a voluntary arrangement may apply to the Minister for accreditation of the arrangement in relation to a product.

Note 1: The administrator of a voluntary arrangement must be a body corporate: see paragraph 71(d) of the Act.

Note 2: See sections 172, 173 and 174 of the Act for additional matters relating to applications.

- (2) For the purposes of paragraph 172(1)(d) of the Act, the application must be accompanied by:

(a) a document setting out details of the following:

- (i) the name of the administrator;
- (ii) the product in relation to which the arrangement is to be accredited;
- (iii) the outcomes, or proposed outcomes, of the arrangement;
- (iv) how the arrangement operates or will operate;
- (v) the proposed use of a product stewardship logo in relation to the arrangement; and

(b) a copy of the document referred to in paragraph 71(b) of the Act.

Note 1: Paragraph 71(b) of the Act requires a voluntary arrangement to have a written document setting out the persons that are authorised by the arrangement to exercise the Commonwealth's intellectual property rights in a product stewardship logo in connection with the product, and the circumstances in which those persons are authorised to exercise those rights.

Note 2: If rules made for the purposes of section 155 of the Act specify a fee that must accompany an application for accreditation of a voluntary arrangement and payment of the fee has not been waived, the application must be accompanied by the fee (see paragraph 172(1)(e) of the Act).

- (3) The administrator may withdraw the application before the Minister makes a decision about the application under section 8.

Division 3—Accreditation of voluntary arrangements

8 Decision to accredit or refuse to accredit a voluntary arrangement

- (1) This section applies if the administrator of a voluntary arrangement applies for the arrangement to be accredited in relation to a product.
- (2) The Minister:
 - (a) must decide whether to accredit, or refuse to accredit, the voluntary arrangement in relation to the product; and
 - (b) if the Minister decides to accredit the arrangement—may, by written notice, do either or both of the following:
 - (i) specify a day on which the accreditation takes effect;
 - (ii) specify a day on which the accreditation ceases to have effect.

Note 1: The Minister is the accrediting authority (see paragraph 70(3)(c) of the Act).

Note 2: For when accreditation takes effect and ceases to have effect, see section 11.

Note 3: See Part 6 of Chapter 4 of the Act for review of a decision to refuse to accredit a voluntary arrangement and requirements to give notice of such a decision.

- (3) A day specified for the purposes of subparagraph (2)(b)(ii) must not be more than 5 years after the day the accreditation takes effect.

9 Matters to which the Minister must or may have regard in deciding whether to accredit a voluntary arrangement

- (1) In deciding whether to accredit a voluntary arrangement in relation to a product, the Minister must have regard to the following matters:
 - (a) whether the arrangement has been established and, if the arrangement has not started operating, whether it will be ready to start operating within a reasonable period;
 - (b) whether the arrangement adequately deals with the following:
 - (i) governance and organisational matters, including procedures for decision making and dispute resolution;
 - (ii) financial arrangements and funding to achieve the outcomes of the arrangement;
 - (iii) assessing the adequacy of the environmental, health and safety policies and practices in relation to the activities undertaken under the arrangement;
 - (iv) the use of a product stewardship logo in relation to the arrangement;
 - (v) monitoring and evaluating the performance of the arrangement in achieving the outcomes of the arrangement;
 - (vi) managing risk in relation to the operation of the arrangement;
 - (c) whether, if requested to do so under section 174 of the Act, the administrator of the arrangement provided further information or documents to the Minister within the period specified in the request;
 - (d) whether the administrator of the arrangement has given false or misleading information or documents;

Section 10

(e) whether the administrator is a fit and proper person.

Note 1: Only certain kinds of voluntary arrangements can be accredited (see section 71 of the Act).

Note 2: Section 175 of the Act is relevant to determining whether the administrator is a fit and proper person.

(2) In deciding whether to accredit a voluntary arrangement in relation to a product, the Minister may have regard to any other matter that the Minister considers relevant.

10 Preconditions to deciding to accredit a voluntary arrangement

(1) Before deciding to accredit a voluntary arrangement in relation to a product, the Minister must be satisfied that the arrangement will result in an overall benefit to the environment, or human health and safety, over the life cycle of the product to which the arrangement relates.

(2) The Minister must refuse to accredit a voluntary arrangement in relation to a product if the Minister is satisfied that:

(a) an outcome of the arrangement in relation to the product will not further the objects of the Act; or

(b) the arrangement is unlikely to achieve one or more of those outcomes; or

(c) the product stewardship criteria are not satisfied in relation to the product; or

(d) the persons authorised by the arrangement to exercise the Commonwealth's intellectual property rights in a product stewardship logo in connection with the product, or the circumstances in which those persons are authorised, are not appropriate; or

(e) it is not in the public interest to accredit the arrangement.

Note 1: See section 14 of the Act for when the product stewardship criteria are satisfied.

Note 2: Subsection 70(5) of the Act is relevant to determining whether the Minister, as the accrediting authority, is satisfied in relation to the matters mentioned in paragraphs (d) and (e) of this section.

Division 4—Accredited voluntary arrangements

11 Period of accreditation

The accreditation of a voluntary arrangement in relation to a product:

- (a) takes effect on:
 - (i) the day the Minister makes the decision to accredit the arrangement;
or
 - (ii) if the Minister specifies another day in the notice referred to in paragraph 8(2)(b)—that day; and
- (b) ceases at the earliest of the following:
 - (i) if the Minister specifies a day in the notice referred to in paragraph 8(2)(b)—the end of that day;
 - (ii) if the accreditation is cancelled—the start of the day on which the cancellation takes effect;
 - (iii) the end of 5 years starting on the day the accreditation takes effect.

Note: The administrator of a voluntary arrangement that ceases to be accredited may apply under Division 2 for the arrangement to be accredited again.

12 Conditions imposed on accreditation

- (1) The Minister may, by written notice given to the administrator of a voluntary arrangement, impose conditions on the accreditation of the arrangement in relation to a product.

Note 1: See Part 6 of Chapter 4 of the Act for review of the decision to impose conditions and requirements to give notice of such a decision.

Note 2: For variation of conditions, see sections 14 and 15.

- (2) Without limiting subsection (1), the conditions may relate to:
 - (a) the operation of the arrangement; or
 - (b) the use of a product stewardship logo in relation to the arrangement; or
 - (c) the obligations of the administrator of the arrangement; or
 - (d) an outcome of the arrangement.

13 Responsibilities of administrator in relation to accreditation

- (1) The administrator of an accredited voluntary arrangement in relation to a product must:
 - (a) take all reasonable steps to ensure that the outcomes of the arrangement are achieved; and
 - (b) ensure that the use of a product stewardship logo in relation to the arrangement complies with:
 - (i) any conditions imposed in relation to the use of the logo; and
 - (ii) the written document mentioned in paragraph 71(b) of the Act; and
 - (c) comply with the requirements set out in Division 7 for reporting and giving information; and
 - (d) ensure that any conditions are complied with.

Part 2 Accreditation of voluntary arrangements

Division 4 Accredited voluntary arrangements

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Note: Paragraph 71(b) of the Act requires a voluntary arrangement to have a written document setting out the persons that are authorised by the arrangement to exercise the Commonwealth's intellectual property rights in a product stewardship logo in connection with the product, and the circumstances in which those persons are authorised to exercise those rights.

(2) Subsection (1) continues to apply to a body corporate that was the administrator of the arrangement until the Minister is notified that there has been a change of the body corporate that is the administrator of the arrangement.

Note: Section 23 requires a change to who is the administrator of an accredited voluntary arrangement to be notified to the Minister.

Division 5—Varying the accreditation of voluntary arrangements

14 Variation of the accreditation of a voluntary arrangement on application

- (1) The administrator of an accredited voluntary arrangement may apply to the Minister to vary any aspect of the accreditation of the arrangement.

Note: See sections 172, 173 and 174 of the Act for additional matters relating to applications.

- (2) An application cannot be made for a variation that would extend the period for which the arrangement is accredited beyond 5 years from the day the accreditation took effect.
- (3) If the Minister receives an application to vary the accreditation of a voluntary arrangement, the Minister must decide:
 - (a) to vary the accreditation; or
 - (b) to refuse to vary the accreditation.

Note: A decision to refuse to vary the accreditation on application is a reviewable decision (see section 17) and the Minister must give the applicant written notice of the decision (see section 152 of the Act).

- (4) In deciding whether to vary the accreditation, the Minister must have regard to the following matters:
 - (a) whether the variation will result in an overall benefit to the environment, or human health and safety, over the life cycle of the product to which the arrangement relates;
 - (b) whether the arrangement is likely to achieve its outcomes;
 - (c) whether the product stewardship criteria will continue to be satisfied.
- (5) Despite subsection (4), the Minister need not have regard to those matters if the application is for a variation:
 - (a) to specify an earlier day on which the accreditation will cease; or
 - (b) to make a minor change to the accreditation of the arrangement (including to correct a minor or technical error).
- (6) In deciding whether to vary the accreditation, the Minister may have regard to any other matter that the Minister considers relevant.

15 Variation of the accreditation of a voluntary arrangement on Minister's own initiative

- (1) The Minister may vary any aspect of the accreditation of a voluntary arrangement on the Minister's own initiative.

Note: A decision under this section is a reviewable decision (see section 17) and the Minister must give the administrator of the arrangement written notice of the decision (see section 152 of the Act)

- (2) Despite subsection (1), a variation cannot be made to extend the period for which the arrangement is accredited beyond 5 years from the day the accreditation took effect.

Section 16

- (3) The Minister may vary the accreditation of a voluntary arrangement only if:
- (a) the Minister is no longer satisfied of a matter mentioned in subsection 10(1); or
 - (b) the Minister is satisfied of a matter mentioned in subsection 10(2); or
 - (c) the Minister is no longer satisfied that the administrator of the arrangement is a fit and proper person; or
 - (d) the Minister is satisfied that the administrator of the arrangement has not complied with a request made by an auditor under section 113 of the Act; or
 - (e) the Minister reasonably believes any of the following:
 - (i) a condition imposed on the accreditation will not be, or is not being, complied with;
 - (ii) the administrator of the arrangement has not complied with the administrator's obligations under section 13;
 - (iii) it is necessary to do so to take account of an event notified under section 72 of the Act;
 - (iv) it is necessary to do so to correct a minor or technical error.

Note: Section 175 of the Act is relevant to determining whether the administrator is a fit and proper person.

- (4) The Minister must not vary the accreditation of a voluntary arrangement unless the Minister has given a written notice to the administrator of the arrangement in accordance with subsection (5).
- (5) The notice must:
- (a) specify each proposed variation; and
 - (b) specify the grounds for each proposed variation; and
 - (c) subject to subsection (6), request the administrator to give the Minister, within 14 days after the day the notice is given, a written statement showing cause why the proposed variation should not be made; and
 - (d) include a statement setting out the administrator's right to seek review of a decision to make the proposed variation.
- (6) The notice is not required to include the request referred to in paragraph (5)(c) if the Minister reasonably believes that the proposed variation is necessary to prevent or lessen a serious and imminent threat to human or environmental health.
- (7) Subsection (4) does not apply to a variation under subparagraph (3)(e)(iv).

16 Notice of variation

- (1) If the Minister varies the accreditation of a voluntary arrangement under section 14 or 15, the Minister must give the administrator of the arrangement written notice of the variation.
- (2) The notice must state the following:
- (a) details of the variation;

- (b) if the variation relates to a condition—the varied condition and any new conditions imposed under section 12;
- (c) the date the variation takes effect.

17 Review of decisions relating to variations

- (1) This section is made for the purposes of subsection 151(2) of the Act.
- (2) A decision under subsection 14(3) to refuse to vary the accreditation of an accredited voluntary arrangement on application is a **reviewable decision** and the administrator of the arrangement is the person **affected** by the reviewable decision.
- (3) A decision under subsection 15(1) to vary an aspect of the accreditation of an accredited voluntary arrangement on the Minister's own initiative is a **reviewable decision** and the administrator of the arrangement is the person **affected** by the reviewable decision.

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Division 6—Cancelling the accreditation of voluntary arrangements

18 When accreditation must be cancelled

The Minister must cancel the accreditation of a voluntary arrangement in relation to a product if the product is no longer sold in more than one State or Territory.

Note: See Part 6 of Chapter 4 of the Act for review of the decision to cancel the accreditation of a voluntary arrangement and requirements to give notice of such a decision.

19 When accreditation may be cancelled

(1) The Minister may cancel the accreditation of a voluntary arrangement in relation to a product:

- (a) on application by the administrator of the arrangement; or
- (b) on the Minister's own initiative.

Note 1: See sections 172, 173 and 174 of the Act for additional matters relating to applications.

Note 2: See Part 6 of Chapter 4 of the Act for review of the decision to cancel, or refuse to cancel, the accreditation of a voluntary arrangement and requirements to give notice of such a decision.

(2) The Minister may cancel the accreditation on the Minister's own initiative if:

- (a) a condition is not complied with; or
- (b) the Minister is satisfied that the administrator of the arrangement has not complied with the administrator's obligations under section 13; or
- (c) the Minister is no longer satisfied of a matter mentioned in subsection 10(1); or
- (d) the Minister is satisfied of a matter mentioned in subsection 10(2); or
- (e) the Minister is not satisfied that the administrator of the arrangement is a fit and proper person; or
- (f) the Minister is satisfied that the administrator of the arrangement has not complied with a request made by an auditor under section 113 of the Act.

Note: Section 175 of the Act is relevant to determining whether the administrator is a fit and proper person.

(3) The Minister must not cancel the accreditation of a voluntary arrangement on the Minister's own initiative unless the Minister has given a written notice to the administrator of the arrangement in accordance with subsection (4).

(4) The notice must:

- (a) specify the grounds on which the Minister proposes to cancel the accreditation; and
- (b) subject to subsection (5), request the administrator to give the Minister, within 14 days after the day the notice is given, a written statement showing cause why the accreditation should not be cancelled; and
- (c) include a statement setting out the administrator's right to seek review of a decision to cancel the accreditation.

- (5) The notice is not required to include the request referred to in paragraph (4)(b) if the Minister reasonably believes that the cancellation is necessary to prevent or lessen a serious and imminent threat to human or environmental health.

20 When cancellation takes effect

- (1) This section applies if the Minister cancels the accreditation of a voluntary arrangement.
- (2) The cancellation takes effect on:
- (a) the day the Minister makes the decision; or
 - (b) if the Minister specifies another day in the notice—that day.

Division 7—Reporting and giving information

21 Annual report

- (1) The administrator of an accredited voluntary arrangement must, in accordance with any conditions, give the Minister an annual report about the performance of the arrangement in relation to the outcomes of the arrangement.

Note: A condition on the accreditation of the arrangement may impose obligations on the administrator in relation to the annual report, including obligations about when the report must be given to the Minister and what information must be in the report.

- (2) The annual report must:
- (a) identify the product in relation to which the arrangement is accredited; and
 - (b) describe the performance of the arrangement in relation to each outcome of the arrangement; and
 - (c) describe any activities undertaken in relation to the matters mentioned in paragraph 9(1)(b); and
 - (d) if an outcome was not achieved—explain why the outcome was not achieved and the measures proposed to be implemented to rectify the failure to achieve the outcome; and
 - (e) include a financial statement setting out the income and expenses of the arrangement for the year to which the report relates; and
 - (f) include evidence to support any claims made in the report.

22 Published summary of arrangement

- (1) The administrator of an accredited voluntary arrangement must publish on the internet a document describing the arrangement, including:
- (a) the name of the administrator; and
 - (b) the product in relation to which the arrangement is accredited; and
 - (c) the outcomes of the arrangement; and
 - (d) how the arrangement operates; and
 - (e) the use of any product stewardship logo in relation to the arrangement.

Note: See paragraph 71(b) of the Act in relation to the requirement to have a written document about the use of the product stewardship logo.

- (2) The administrator must maintain an up-to-date version of the document on the internet throughout the period of accreditation.

Part 3—Other matters

23 Notifying the Minister of certain events

- (1) This section is made for the purposes of paragraph 72(1)(d) of the Act.
- (2) An event that hinders the ability of an accredited voluntary arrangement to adequately deal with the matters mentioned in paragraph 9(1)(b) of this instrument is prescribed.