



Recycling and Waste Reduction (Export— Waste Tyres) Rules 2021

I, Trevor Evans, Assistant Minister for Waste Reduction and Environmental Management and Parliamentary Secretary to the Minister for the Environment, make the following rules.

Dated 27 October 2021

Trevor Evans
Assistant Minister for Waste Reduction and Environmental Management
Parliamentary Secretary to the Minister for the Environment

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Part 1—Preliminary

1 Name

This instrument is the *Recycling and Waste Reduction (Export—Waste Tyres) Rules 2021*.

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 December 2021. | 1 December 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Note: This table relates only to the provisions of this instrument as originally made.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:

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

export permit has the same meaning as in the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*.

hazardous waste has the same meaning as in the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*.

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

regulated tyre derived fuel means tyre derived fuel that is prescribed under section 5.

regulated waste tyres means waste tyres that are prescribed under section 5.

re-use, in relation to a tyre, means use again as a tyre without further processing.

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trade sample, in relation to regulated waste tyres, means such tyres that:

- (a) are exported solely for the purposes of market testing; and
- (b) are not hazardous waste; and
- (c) are not tyres intended for retreading; and
- (d) are not tyres intended for re-use.

tyre derived fuel: see subsection 5(3).

vehicle includes an aircraft.

waste tyres: see subsection 5(2).

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

waste tyre specification means a written industry specification or standard that relates to the processing or supply of waste tyres.

Part 2—Regulating waste tyres

5 Waste tyres are regulated waste material

- (1) For the purposes of subsection 17(1) of the Act, waste tyres, other than the kinds of waste tyres referred to in subsection (4) of this section, are prescribed.

Note: Waste tyres that are prescribed under this section are *regulated waste tyres*.

- (2) *Waste tyres* means:
- (a) tyres that are designed for motorised vehicles and that are discarded, rejected or left over from an industrial, commercial, domestic or other activity; or
 - (b) tyres that are designed for motorised vehicles and that are surplus to or a by-product of an industrial, commercial, domestic or other activity; or
 - (c) the rubber component of a tyre described in paragraph (a) or (b); or
 - (d) tyre derived fuel.
- (3) *Tyre derived fuel* means waste material that:
- (a) includes waste tyres within the meaning of paragraphs (2)(a) to (c), whether alone or processed with any other waste material; and
 - (b) is intended for use as fuel;
- but does not include waste material that is processed engineered fuel within the meaning of the *Recycling and Waste Reduction (Export—Waste Plastic) Rules 2021*.
- (4) The following kinds of waste tyres are not prescribed for the purposes of subsection 17(1) of the Act:
- (a) waste tyres that are exported for personal or domestic use;
 - (b) waste tyres that are imported into Australia on a temporary basis and are re-exported in the same covering and with the same trade description (within the meaning of the *Commerce (Trade Descriptions) Act 1905*) with which they were imported;
 - (c) waste tyres that are hazardous waste in relation to which an order or arrangement has been made by the Minister under Part 3 of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989*;
 - (d) tyres designed for electric single-person transport such as scooters, skateboards and bikes (not including tyres for electric motorbikes and similar road vehicles);
 - (e) tyres designed for a wheelchair;
 - (f) tyres designed for a remote control toy;
 - (g) tyres with no rubber component.

6 Prescribed export conditions for regulated waste tyres

For the purposes of section 18 of the Act, the export of regulated waste tyres is prohibited unless:

- (a) the exporter holds a waste tyres export licence that covers the tyres; and

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- (b) the licence is in force and not suspended at the time the tyres are exported;
and
- (c) for each consignment of tyres that is exported—the exporter has given the Minister an export declaration for the consignment.

Part 3—Waste tyres export licences

7 Application for waste tyres export licence—requirements

- (1) For the purposes of paragraphs 172(1)(c) and (d) of the Act, this section prescribes:
 - (a) information that must be included in an application under section 33 of the Act for a waste tyres export licence; and
 - (b) documents that must accompany such an application.

Tyres other than tyres intended for retreading or re-use

- (2) For each kind of regulated waste tyres, other than tyres intended for retreading or re-use, that are intended for export under the licence, the application must nominate a waste tyre specification with which that kind of tyres will comply.
- (3) If a nominated specification is not a listed waste tyre specification, the application must be accompanied by a copy of the nominated specification.
- (4) The application must include information demonstrating that each kind of regulated waste tyres will be processed before export to comply with the nominated specification for the kind of tyres.

Tyres intended for retreading

- (5) If tyres intended for retreading are intended for export under the licence, the application must:
 - (a) nominate each retreading facility in which the tyres will be retreaded; and
 - (b) include information as to how the applicant intends to meet the requirements (if any) of a nominated facility in relation to the quality and kind of tyres to be exported.

Tyres intended for re-use

- (6) If tyres intended for re-use are intended for export under the licence, the application must:
 - (a) nominate each importer to which the tyres will be exported; and
 - (b) include information as to how the applicant intends to meet the requirements (if any) of a nominated importer in relation to the quality and kind of tyres to be exported.

8 Deciding whether to grant a waste tyres export licence—regulated waste tyres other than tyres for retreading or re-use and tyre derived fuel

- (1) For the purposes of paragraph 34(2)(f) of the Act, this section prescribes other matters to which the Minister must have regard in deciding whether to grant a waste tyres export licence in relation to a kind of regulated waste tyres other than:
 - (a) tyres intended for retreading (see section 9 of this instrument); or

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- (b) tyres intended for re-use (see section 10 of this instrument); or
- (c) regulated tyre derived fuel (see section 11 of this instrument).

(2) The matters are the following:

- (a) the intended use of the waste tyres in the place to which the tyres are intended to be exported;
- (b) whether the waste tyre specification nominated for the tyres in the application is appropriate for the intended use of the tyres in the place to which the tyres are intended to be exported;
- (c) if the nominated specification is not a listed waste tyre specification:
 - (i) the thresholds for contaminants in the specification; and
 - (ii) any packaging requirements in the specification; and
 - (iii) any size requirements in the specification, and whether processing tyres in accordance with the specification will result in pieces with dimensions of not more than 150 millimetres; and
 - (iv) whether tyres processed in accordance with the specification will be shred or processed into rubber crumb, granules or buffings;
- (d) whether the applicant has applied for, is the holder of, or has been refused, an export permit relating to the kind of waste tyres (as hazardous waste);
- (e) whether the applicant has been the holder of an export licence, relating to any regulated waste material, that has been revoked under Division 2 of Part 8 of Chapter 2 of the Act (revocation by Minister);
- (f) whether the Minister is reasonably satisfied that a condition of an export permit held at any time by the applicant in relation to any hazardous waste has been, or is being, contravened.

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 Deciding whether to grant a waste tyres export licence—tyres intended for retreading

- (1) For the purposes of paragraph 34(2)(f) of the Act, this section prescribes other matters to which the Minister must have regard in deciding whether to grant a waste tyres export licence in relation to a kind of regulated waste tyres that are tyres intended for retreading.
- (2) The matters are the following:
 - (a) the intended use of the waste tyres in the place to which the tyres are intended to be exported;
 - (b) whether the kind of tyres intended for export under the licence are appropriate for retreading;
 - (c) whether the applicant is likely to ensure that waste tyres exported under the licence are clean, dry and undamaged;
 - (d) whether each retreading facility nominated in the application is appropriate for retreading the tyres;
 - (e) whether the applicant is likely to meet the requirements (if any) of a nominated retreading facility in relation to the quality and kind of tyres to be exported;

- (f) whether the applicant has applied for, is the holder of, or has been refused, an export permit relating to the kind of waste tyres (as hazardous waste);
- (g) whether the applicant has been the holder of an export licence, relating to any regulated waste material, that has been revoked under Division 2 of Part 8 of Chapter 2 of the Act (revocation by Minister);
- (h) whether the Minister is reasonably satisfied that a condition of an export permit held at any time by the applicant in relation to any hazardous waste has been, or is being, contravened.

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).

10 Deciding whether to grant a waste tyres export licence—tyres intended for re-use

- (1) For the purposes of paragraph 34(2)(f) of the Act, this section prescribes other matters to which the Minister must have regard in deciding whether to grant a waste tyres export licence in relation to a kind of regulated waste tyres that are tyres intended for re-use.
- (2) The matters are the following:
 - (a) the intended use of the waste tyres in the place to which the tyres are intended to be exported;
 - (b) whether the kind of tyres intended for export under the licence are appropriate for re-use (including whether the tyres are likely to have sufficient tread depth remaining);
 - (c) whether the applicant is likely to ensure that waste tyres exported under the licence are clean, dry and undamaged;
 - (d) whether it is appropriate to export waste tyres to each nominated importer for re-use;
 - (e) whether the applicant is likely to meet the requirements (if any) of a nominated importer in relation to the quality and kind of tyres to be exported;
 - (f) whether the applicant has applied for, is the holder of, or has been refused, an export permit relating to the kind of waste tyres (as hazardous waste);
 - (g) whether the applicant has been the holder of an export licence, relating to any regulated waste material, that has been revoked under Division 2 of Part 8 of Chapter 2 of the Act (revocation by Minister);
 - (h) whether the Minister is reasonably satisfied that a condition of an export permit held at any time by the applicant in relation to any hazardous waste has been, or is being, contravened.

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).

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11 Deciding whether to grant a waste tyres export licence—regulated tyre derived fuel

- (1) For the purposes of paragraph 34(2)(f) of the Act, this section prescribes other matters to which the Minister must have regard in deciding whether to grant a waste tyres export licence in relation to regulated tyre derived fuel.
- (2) The matters are the following:
 - (a) the intended use of the tyre derived fuel in the place to which the fuel is intended to be exported;
 - (b) whether the waste tyre specification nominated for the fuel in the application is appropriate for the intended use of the fuel in the place to which the fuel is intended to be exported;
 - (c) if the nominated specification is not a listed waste tyre specification:
 - (i) any calorific value requirements in the specification; and
 - (ii) the thresholds for contaminants in the specification; and
 - (iii) any packaging requirements in the specification; and
 - (iv) any particle size or bulk density requirements in the specification, and whether processing the tyre derived fuel in accordance with the specification will result in pieces with dimensions of not more than 150 millimetres; and
 - (v) the threshold for moisture in the specification;
 - (vi) any testing or sampling requirements in the specification;
 - (d) whether the applicant has applied for, is the holder of, or has been refused, an export permit relating to tyre derived fuel (as hazardous waste);
 - (e) whether the applicant has been the holder of an export licence, relating to any regulated waste material, that has been revoked under Division 2 of Part 8 of Chapter 2 of the Act (revocation by Minister);
 - (f) whether the Minister is reasonably satisfied that a condition of an export permit held at any time by the applicant in relation to any hazardous waste has been, or is being, contravened.

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).

12 Conditions of waste tyres export licence—regulated waste tyres other than tyres for retreading or re-use and tyre derived fuel

- (1) For the purposes of paragraph 35(1)(b) of the Act, this section prescribes conditions of a waste tyres export licence in relation to regulated waste tyres covered by the licence, other than regulated waste tyres that are:
 - (a) tyres intended for retreading (see section 13 of this instrument); or
 - (b) tyres intended for re-use (see section 14 of this instrument);
 - (c) regulated tyre derived fuel (see section 15 of this instrument).

Note 1: A waste tyres 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.

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Note 2: The holder of a waste tyres 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 tyres export licence, may be varied either on application by the licence holder or by the Minister on the Minister's own initiative (see Part 6 of Chapter 2 of the Act).

- (2) The holder of the licence must, for each consignment of such tyres exported under the licence:
 - (a) ensure that the tyres comply, before export, with the waste tyre specification for the tyres stated in the licence; and
 - (b) have, at the time the tyres are exported, a commercial relationship with the importer of the tyres.
- (3) If the holder of the licence is not the supplier of the tyres, the holder must, at the time the tyres were supplied, have had a commercial relationship with the supplier.
- (4) If, in accordance with paragraph 36(2)(d) of the Act, the licence states one or more places to which the tyres may be exported, the holder of the licence must export the tyres only to a stated place.
- (5) The holder of the licence must notify the Minister, in the form approved by the Minister, if any of the following events occur:
 - (a) there is a change in the supplier of the tyres covered by the licence;
 - (b) there is a change in the freight forwarder or other agent used to export the tyres covered by the licence (including using an agent where one was not previously used, or ceasing to use an agent);
 - (c) there is a change in the importer of the tyres covered by the licence.
- (6) A notification under subsection (5) must be given as soon as practicable after the event occurs.

13 Conditions of waste tyres export licence—tyres intended for retreading

- (1) For the purposes of paragraph 35(1)(b) of the Act, this section prescribes conditions of a waste tyres export licence in relation to regulated waste tyres that are tyres intended for retreading.

Note 1: A waste tyres 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 tyres 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 tyres export licence, may be varied either on application by the licence holder or by the Minister on the Minister's own initiative (see Part 6 of Chapter 2 of the Act).

- (2) The holder of the licence must, for each consignment of such tyres exported under the licence, have, at the time the tyres are exported, a commercial relationship with:
 - (a) the retreading facility stated in the licence in which the tyres are to be retreaded; or

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- (b) if the facility is not the importer of the tyres—the importer.
- (3) The holder of the licence must, for each consignment of such tyres exported under the licence, ensure that the tyres are:
 - (a) clean, dry and undamaged; and
 - (b) not baled or subject to high-density packing (such as doubling or tripling).
- (4) The holder of the licence must, for each consignment of such tyres exported under the licence, ensure that the tyres are retreaded at a retreading facility stated in the licence.
- (5) If the holder of the licence is not the supplier of the tyres, the holder must, at the time the tyres were supplied, have had a commercial relationship with the supplier.
- (6) If, in accordance with paragraph 36(2)(d) of the Act, the licence states one or more places to which the tyres may be exported, the holder of the licence must export the tyres only to a stated place.
- (7) The holder of the licence must notify the Minister, in the form approved by the Minister, if any of the following events occur:
 - (a) there is a change in the supplier of the tyres covered by the licence;
 - (b) there is a change in the freight forwarder or other agent used to export the tyres covered by the licence (including using an agent where one was not previously used, or ceasing to use an agent);
 - (c) there is a change in the importer of the tyres covered by the licence;
 - (d) if a retreading facility stated in the licence is a business—there is a change in the person operating the business.
- (8) A notification under subsection (7) must be given as soon as practicable after the event occurs.

14 Conditions of waste tyres export licence—tyres intended for re-use

- (1) For the purposes of paragraph 35(1)(b) of the Act, this section prescribes conditions of a waste tyres export licence in relation to regulated waste tyres that are tyres intended for re-use.

Note 1: A waste tyres 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 tyres 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 tyres export licence, may be varied either on application by the licence holder or by the Minister on the Minister's own initiative (see Part 6 of Chapter 2 of the Act).

- (2) The holder of the licence must, for each consignment of such tyres exported under the licence, have, at the time the tyres are exported, a commercial relationship with the importer of the tyres.

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- (3) The holder of the licence must, for each consignment of such tyres exported under the licence, ensure that the tyres are:
 - (a) clean, dry and undamaged; and
 - (b) not baled or subject to high-density packing (such as doubling or tripling).
 - (4) The holder of the licence must, for each consignment of such tyres exported under the licence, ensure that the tyres are exported to an importer stated in the licence.
 - (5) If the holder of the licence is not the supplier of the tyres, the holder must, at the time the tyres were supplied, have had a commercial relationship with the supplier.
 - (6) If, in accordance with paragraph 36(2)(d) of the Act, the licence states one or more places to which the tyres may be exported, the holder of the licence must export the tyres only to a stated place.
 - (7) The holder of the licence must notify the Minister, in the form approved by the Minister, if any of the following events occur:
 - (a) there is a change in the supplier of the tyres covered by the licence;
 - (b) there is a change in the freight forwarder or other agent used to export the tyres covered by the licence (including using an agent where one was not previously used, or ceasing to use an agent);
 - (c) if an importer stated in the licence is a business—there is a change in the person operating the business.
 - (8) A notification under subsection (7) must be given as soon as practicable after the event occurs.

15 Conditions of waste tyres export licence—regulated tyre derived fuel

- (1) For the purposes of paragraph 35(1)(b) of the Act, this section prescribes conditions of a waste tyres export licence in relation to regulated tyre derived fuel.

Note 1: A waste tyres 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 tyres 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 tyres export licence, may be varied either on application by the licence holder or by the Minister on the Minister’s own initiative (see Part 6 of Chapter 2 of the Act).
 - (2) The holder of the licence must, for each consignment of tyre derived fuel exported under the licence:
 - (a) ensure that the fuel complies, before export, with the waste tyre specification for the fuel stated in the licence; and
 - (b) ensure that the fuel is securely packaged before export; and
 - (c) take all reasonable steps to ensure that the fuel will be combusted in a way that minimises the risk of harm to the environment or human health; and
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- (d) have, at the time the fuel is exported, a commercial relationship with the importer of the fuel.
- (3) If the holder of the licence is not the supplier of the tyre derived fuel, the holder must, at the time the fuel was supplied, have had a commercial relationship with the supplier.
- (4) If, in accordance with paragraph 36(2)(d) of the Act, the licence states one or more places to which the tyre derived fuel may be exported, the holder of the licence must export the fuel only to a stated place.
- (5) The holder of the licence must notify the Minister, in the form approved by the Minister, if any of the following events occur:
 - (a) there is a change in the supplier of the tyre derived fuel covered by the licence;
 - (b) there is a change in the freight forwarder or other agent used to export the tyre derived fuel covered by the licence (including using an agent where one was not previously used, or ceasing to use an agent);
 - (c) there is a change in the importer of the tyre derived fuel covered by the licence.
- (6) A notification under subsection (5) must be given as soon as practicable after the event occurs.

16 Information to be stated in waste tyres export licence

- (1) For the purposes of paragraph 36(2)(k) of the Act, this section prescribes other information that must be stated in a waste tyres export licence.

Note: This information may be varied either on application by the licence holder or by the Minister on the Minister's own initiative (see Part 6 of Chapter 2 of the Act).
- (2) If there is a waste tyre specification with which a kind of tyres covered by the licence will comply, the licence must state the specification for the tyres. At the grant of the licence, the stated specification must be the specification nominated for the kind of tyres in the application for the licence.

Note: The licence may later be varied under Part 6 of Chapter 2 of the Act.
- (3) If there is a retreading facility in which a kind of tyres exported under the licence will be retreaded, the licence must state the facility. At the grant of the licence, the stated facility must be the facility nominated in the application for the licence.

Note: The licence may later be varied under Part 6 of Chapter 2 of the Act.
- (4) If there is an importer to which a kind of tyres will be exported under the licence for re-use, the licence must state the importer. At the grant of the licence, the stated importer must be the importer nominated in the application for the licence.

Note: The licence may later be varied under Part 6 of Chapter 2 of the Act.

17 Renewal of waste tyres export licence

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

Note: An application to renew a waste tyres 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).

- (2) For the purposes of paragraph 39(3)(f) of the Act, the Minister must have regard to the following matters in deciding whether to renew a waste tyres export licence:

- (a) for a licence that covers regulated waste tyres other than those referred to in paragraphs (b) to (d) of this subsection—the matters listed in subsection 8(2) of this instrument;
- (b) for a licence that covers regulated waste tyres that are tyres intended for retreading—the matters listed in subsection 9(2) of this instrument;
- (c) for a licence that covers regulated waste tyres that are tyres intended for re-use—the matters listed in subsection 10(2) of this instrument;
- (d) for a licence that covers regulated tyre derived fuel—the matters listed in subsection 11(2) of this instrument.

Note: Other matters to which the Minister must have regard are specified in paragraphs 39(3)(a) to (e) of the Act. The Minister may also have regard to any other matter that the Minister considers relevant (see subsection 39(4) of the Act).

- (3) For the purposes of the application of subsection (2):

- (a) a reference in subsection 8(2) or 11(2) to a nominated specification is taken, if the licence holder has not nominated a different specification in the application for renewal of the licence, to be a reference to the specification currently stated in the licence; and
- (b) a reference in subsection 9(2) to a nominated retreading facility is taken to be a reference to a retreading facility currently stated in the licence; and
- (c) a reference in subsection 10(2) to a nominated importer is taken to be a reference to an importer currently stated in the licence.

18 Application by holder to vary waste tyres export licence—requirements

- (1) For the purposes of paragraphs 172(1)(c) and (d) of the Act, this section prescribes:

- (a) information that must be included in an application under section 42 of the Act to vary a waste tyres export licence; and
- (b) documents that must accompany such an application.

- (2) If the holder of the licence is applying to vary the licence to state a new waste tyre specification (whether in addition to or in substitution for a waste tyre specification currently stated in the licence), the application must:

- (a) include information demonstrating that a kind of regulated waste tyres intended for export under the licence, as varied, will be processed before export to comply with the proposed waste tyre specification; and

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- (b) if the proposed waste tyre specification is not a listed waste tyre specification—be accompanied by a copy of the proposed waste tyre specification.
- (3) If the holder of the licence is applying to vary the licence to state a new retreading facility in which tyres intended for export under the licence will be retreaded (whether in addition to or in substitution for a retreading facility currently stated in the licence), the application must nominate the new retreading facility.
- (4) If the holder of the licence is applying to vary the licence to state a new importer to which tyres will be exported under the licence for re-use (whether in addition to or in substitution for an importer currently stated in the licence), the application must nominate the new importer.

19 Deciding whether to vary a waste tyres export licence

- (1) For the purposes of paragraph 42(4)(e) of the Act, the Minister must have regard to the following matters in deciding whether to vary a waste tyres export licence:
 - (a) for a licence that covers regulated waste tyres other than those referred to in paragraphs (b) to (d) of this subsection—the matters listed in subsection 8(2) of this instrument;
 - (b) for a licence that covers regulated waste tyres that are tyres intended for retreading—the matters listed in subsection 9(2) of this instrument;
 - (c) for a licence that covers regulated waste tyres that are tyres intended for re-use—the matters listed in subsection 10(2) of this instrument;
 - (d) for a licence that covers regulated tyre derived fuel—the matters listed in subsection 11(2) of this instrument.

Note: Other matters to which the Minister must generally have regard are specified in paragraphs 42(4)(a) to (d) of the Act. The Minister may also have regard to any other matter that the Minister considers relevant (see subsection 42(6) of the Act).

- (2) For the purposes of the application of subsection (1), a reference in a provision to a thing nominated in an application is taken, if the licence holder has not included a nomination in the application for variation of the licence, to be a reference to a thing of that kind currently stated in the licence.

20 Reasons for variation of waste tyres export licence

For the purposes of paragraph 44(2)(i) of the Act:

- (a) a reason for varying a waste tyres export licence that covers regulated waste tyres that are tyres intended for retreading is that it is no longer appropriate to export the tyres to a retreading facility stated in the licence; and
- (b) a reason for varying a waste tyres export licence that covers regulated waste tyres that are tyres intended for re-use is that it is no longer appropriate to export the tyres to an importer stated in the licence.

Note: Other grounds for varying an export licence are specified in paragraphs 44(2)(a) to (h) of the Act.

21 Grounds for suspension of waste tyres export licence

- (1) For the purposes of paragraph 46(1)(i) of the Act, a ground for suspending a waste tyres export licence is 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 for the grant, renewal or variation of 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.
- (2) For the purposes of paragraph 46(1)(i) of the Act:
 - (a) a ground for suspending a waste tyres export licence that covers regulated waste tyres that are tyres intended for retreading is that it is no longer appropriate to export the tyres to a retreading facility stated in the licence; and
 - (b) a ground for suspending a waste tyres export licence that covers regulated waste tyres that are tyres intended for re-use is that it is no longer appropriate to export the tyres to an importer stated in the licence.

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

22 Grounds for revocation of waste tyres export licence

- (1) For the purposes of paragraph 54(1)(i) of the Act, a ground for revoking a waste tyres export licence is 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 for the grant, renewal or variation of 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.
- (2) For the purposes of paragraph 54(1)(i) of the Act:
 - (a) a ground for revoking a waste tyres export licence that covers regulated waste tyres that are tyres intended for retreading is that it is no longer appropriate to export the tyres to a retreading facility stated in the licence; and
 - (b) a ground for revoking a waste tyres export licence that covers regulated waste tyres that are tyres intended for re-use is that it is no longer appropriate to export the tyres to an importer stated in the licence.

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

Section 23

23 Holder of waste tyres export licence to notify the Minister of certain events

For the purposes of paragraph 61(1)(e) of the Act, the following are prescribed events for the holder of a waste tyres export licence:

- (a) the holder ceases to operate the export business that carries out export operations covered by the licence;
- (b) a person who participates in the management or control of the export business that carries out export operations covered by the licence ceases to have that role.

24 Directions to holders of waste tyres export licences

For the purposes of paragraph 64(3)(b) of the Act, the Minister must, in considering whether to give a direction under subsection 64(1) of the Act to the holder of waste tyres export licence, have regard to the following:

- (a) whether a condition of the licence has been contravened, or is likely to be contravened;
- (b) whether the holder has not complied, or is likely not to comply, with a requirement of the Act;
- (c) whether the regulated waste tyres covered by the licence do not comply, or are likely not to comply, with a requirement under the Act that applies in relation to the tyres.

Part 4—Exemptions

25 Application for exemption—requirements

- (1) For the purposes of paragraphs 172(1)(c) and (d) of the Act, this section prescribes information that must be included in, and documents that must accompany, an application under section 25 of the Act for an exemption in relation to export of a trade sample of regulated waste tyres.
- (2) The application must nominate a waste tyre specification with which the tyres in the trade sample will comply. If the nominated specification is not a listed waste tyre specification, the application must be accompanied by a copy of the nominated specification.
- (3) The application must include information demonstrating that the tyres in the trade sample will be processed before export to comply with the nominated specification.

26 Deciding whether to grant exemption

- (1) For the purposes of subsection 26(2) of the Act, this section prescribes matters to which the Minister must have regard to in deciding whether it is appropriate to grant an exemption in relation to export of a trade sample of regulated waste tyres.
- (2) The Minister must have regard to whether the applicant is capable of complying with the waste tyre specification nominated in the application.
- (3) If the nominated specification is not a listed waste tyre specification, the Minister must also have regard to:
 - (a) for an exemption in relation to a trade sample of regulated waste tyres other than tyre derived fuel—the matters listed in paragraph 8(2)(c); or
 - (b) for an exemption in relation to a trade sample of regulated tyre derived fuel—the matters listed in paragraph 11(2)(c).

27 Revocation of exemption

For the purposes of paragraph 31(2)(b) of the Act, the Minister must, in considering whether to revoke an exemption in relation to regulated waste tyres, have regard to whether the holder of the exemption has contravened or is contravening a condition of the exemption.

Part 5—Record-keeping

28 Purpose of Part

This Part is made for the purposes of subsection 142(1) of the Act.

29 Making and retaining records

- (1) The holder of a waste tyres export licence must make and retain the following records:
 - (a) for each consignment of regulated waste tyres 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) a photograph or photographs of the tyres in the consignment, and of the consignment once packed for export, that have sufficient resolution, brightness and contrast to show the tyres and consignment clearly and that are time and date stamped;
 - (b) for each such consignment that includes tyres intended for re-use—a copy of the receipt for payment for the consignment issued by the holder to the importer;
 - (c) each other document, made by the holder or that comes into the holder's possession, that is relevant to showing whether the holder has complied or is complying with the applicable requirements of the Act.
- (2) The holder of the waste tyres export licence must retain each record for at least 5 years beginning on the day the record is made by the holder or comes into the holder's possession (as the case may be).
- (3) A record that is required under this section must be:
 - (a) subject to subsection (4)—in English; and
 - (b) dated, with the date that the document was made by the holder or came into the holder's possession; and
 - (c) for a document made by the holder—accurate and legible; and
 - (d) able to be audited.
- (4) If the record is not in English, the holder of the waste tyres export licence must obtain (as soon as practicable after the record is made by the holder or comes into the holder's possession) and retain a translation of the record into English.

30 Records must not be altered or defaced during retention period

- (1) A record that is required to be retained by the holder of a waste tyres export licence under section 29 must not be altered or defaced during the period of 5 years (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 in accordance with ordinary practice, the licence holder must also retain, during the retention period:
- (a) if reasonably practicable—a copy of the original record without notations or markings; and
 - (b) copies of the record that show how the record has changed over time.

Part 6—Other matters

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

- (1) For the purposes of section 181 of the Act, subsection (2) of 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 in relation to a waste tyres export licence:
 - (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).
- (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 to the Minister to pay the amount of the relevant Commonwealth liability; and
 - (b) the 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 undertaking and has not revoked the acceptance.
- (3) For the purposes of paragraph (2)(c), the Minister must not accept an undertaking unless the Minister has considered the following matters:
 - (a) the financial position of the person who gave the undertaking;
 - (b) the nature and likely cost of the export operations to which a decision under the relevant provision relates;
 - (c) 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 paragraph (b) of this subsection.

The Minister may also consider any other matter that the Minister considers relevant.