



Export Control (Miscellaneous) Rules 2021

made under section 432 of the

Export Control Act 2020

Compilation No. 2

Compilation date:	1 April 2022
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Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Export Control (Miscellaneous) Rules 2021* that shows the text of the law as amended and in force on 1 April 2022 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary	1
1-1 Name.....	1
1-3 Authority.....	1
1-4 Definitions	1
Part 2—Decisions that may be made by computer program	2
2-1 Decisions that may be made by operation of computer program	2
Part 3—Publication of information	3
3-1 Secretary may publish certain protected information.....	3
Part 4—Fit and proper person test	4
4-1 Fit and proper person test—matters to which Secretary must have regard	4
Endnotes	5
Endnote 1—About the endnotes	5
Endnote 2—Abbreviation key	6
Endnote 3—Legislation history	7
Endnote 4—Amendment history	8

Part 1—Preliminary

1-1 Name

This instrument is the *Export Control (Miscellaneous) Rules 2021*.

1-3 Authority

This instrument is made under the *Export Control Act 2020*.

1-4 Definitions

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

- (a) government certificate;
- (b) non-prescribed goods;
- (c) Regulatory Powers Act.

In this instrument:

Act means the *Export Control Act 2020*, and includes:

- (a) legislative instruments made under the *Export Control Act 2020*; and
- (b) the Regulatory Powers Act as it applies in relation to the *Export Control Act 2020*.

Part 2—Decisions that may be made by computer program

2-1 Decisions that may be made by operation of computer program

Kinds of decisions

- (1) For the purposes of paragraph 286(2)(a) of the Act and subject to subsection (2), a decision under paragraph 67(1)(a) of the Act to issue a government certificate in relation to a kind of non-prescribed goods may be made by the operation of a computer program (an **authorised computer program**) under an arrangement made under subsection 286(1) of the Act.
- (2) Subsection (1) applies in relation to a decision only if no other rules prescribed for the purposes of paragraph 286(2)(a) of the Act apply in relation to the decision.

Example: This section does not apply in relation to a decision under paragraph 67(1)(a) of the Act to issue a government certificate in relation to non-prescribed plants or plant products because this decision is prescribed by section 9-17 of the *Export Control (Plants and Plant Products) Rules 2021*.

Persons who may use computer program

- (3) For the purposes of paragraph 286(2)(b) of the Act, the following persons may use an authorised computer program for a decision referred to in subsection (1) of this section:
 - (a) a person applying for a government certificate in relation to a kind of non-prescribed goods under subsection 65(1) of the Act;
 - (b) an APS employee in the Department;
 - (c) a person performing services for the Department under a contract;if the Secretary has given the person a unique identifier to enable the person to access the computer program.

Conditions of use of computer program

- (4) For the purposes of paragraph 286(2)(c) of the Act, a person who may use an authorised computer program under subsection (3) of this section must:
 - (a) be satisfied on reasonable grounds that information entered into the computer program by the person for the purpose of enabling decisions to be made by operation of the computer program is true and correct; and
 - (b) ensure that the information is accurately entered into the computer program.

Part 3—Publication of information

3-1 Secretary may publish certain protected information

- (1) The Secretary may publish, or otherwise disclose, protected information if:
 - (a) it does not include personal information about any individual; or
 - (b) all personal information about an individual included in the protected information is de-identified.

Meaning of de-identified

- (2) For the purposes of this section, personal information is **de-identified** if the information is no longer about an identifiable individual or an individual who is reasonably identifiable.

Part 4—Fit and proper person test

4-1 Fit and proper person test—matters to which Secretary must have regard

For the purposes of subparagraph 372(2)(a)(vi) of the Act, the following Acts are prescribed:

- (a) the *Primary Industries Levies and Charges Collection Act 1991*;
- (b) the *Recycling and Waste Reduction Act 2020*.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

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ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Export Control (Miscellaneous) Rules 2021	22 March 2021 (F2021L00302)	3 am (A.C.T) 28 March 2021 (s 1-2(1) item 1)	
Export Control Legislation Amendment (2021 Measures No. 1) Rules 2021	7 December 2021 (F2021L01730)	Sch 3 (item 1): 8 December 2021 (s 2(1) item 3)	—
Export Control Legislation Amendment (2022 Measures No. 1) Rules 2022	31 Mar 2022 (F2022L00438)	Sch 2 (item 1): 1 Apr 2022 (s 2(1) item 3)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 1-2.....	rep LA s 48D
Part 3	
Part 3	ad F2021L01730
s 3-1.....	ad F2021L01730
Part 4	
Part 4	ad F2022L00438
s 4-1.....	ad F2022L00438
