

## ACT Container Export Protocol

This document is the Container Export Protocol (**protocol**) referenced in the Export Supply Deed Poll (the **Deed Poll**) for **the ACT Container Deposit Scheme** (the **Scheme**) that is in effect under the *Waste Management and Resource Recovery Amendment Act 2017* (ACT) (**the Act**). The Container Export Protocol sets out guidelines, procedures and requirements for parties that have executed an Exporter Deed Poll in order to receive payments from the Scheme in relation to exporting beverages in eligible containers (**beverage products**) out of the ACT.

By executing the Deed Poll, an Exporter agrees to be bound by the terms of this protocol and agrees and acknowledges that:

- to the extent permitted by law, the Scheme Coordinator and the Territory have no obligation, whether under contract or any other basis, to the Exporter in relation to this protocol; and
- the Scheme Coordinator and the Territory will rely upon the commitments made by the Exporter in the Deed Poll.

Exchange for Change may change this protocol at any time, including but not limited to the information requirements and the basis for payment to Exporters. In so doing Exchange for Change will endeavour, but is not required, to provide 30 days' notice by publication on this website.

### 1. What is an export?

An “export” means a beverage product that is Supplied outside of the Australian Capital Territory for the first time where that beverage product has been previously Supplied by a Supplier in the Australian Capital Territory. This is subject to any specific inclusions or exclusions contained in this protocol.

Supply has the meaning given in the Act (and Supplied has the same meaning).

A Supplier means a person who has entered into a Supply Arrangement with the Scheme Coordinator for the purpose of section 64W of the Act.

### 2. Who is an Exporter?

An “Exporter” is a party that makes the export.

### 3. How to register to be an exporter

To register as an Exporter parties must execute the Exporter Deed Poll in favour of the Scheme Coordinator Exchange for Change.

To commence the registration process, an Exporter must complete the webform hosted at [link].

If the Exporter has already registered as a Supplier in the ACT and the details of the business and its signatories remain the same, the Exporter will have an option to re-use the information previously provided to the Scheme Coordinator.

Once the Exporter provides the details requested in the form, the Scheme Coordinator will prepare the Deed Poll for execution. The Deed Poll is a standard form document that cannot be amended.

Exporters will then need to execute the Deed Poll electronically using the DocuSign platform. This is the same execution platform that is being used for the execution of Supply Agreements.

When the Deed Poll has been prepared the Scheme Coordinator will email the Exporter with a link to the document via the e-mail address provided during the registration process. When the Exporter clicks the link the DocuSign platform will require the Exporter to create a log in and an electronic signature the first time the Exporter uses the system.

Once the Exporter has read the document, it can then execute the document by clicking on the appropriate signature fields. The document will automatically progress through to the next step of the execution process.

When the document has been fully executed the Exporter will be emailed a copy for its records.

Once the Deed Poll has been executed, the Scheme Coordinator will provide the Exporter with a unique Exporter ID number.

The Exporter will need this number to identify itself when making its Initial Export Supply Statement and/or Export Supply Statements online.

#### 4. [How to make a payment claim for exports](#)

Exporters may make a payment claim either by submitting an Initial Export Supply Statement or an Export Supply Statement in accordance with this protocol.

These statements need to be provided electronically through the Scheme Coordinator portal. Instructions, including the website address, will be provided to Exporters through an initial email after registration and may be amended from time to time.

Exporters should note the information required includes a breakdown of the number of beverage products by container material type in each month. It also requires the Exporter to be able to identify the Supplier that first Supplied in the ACT each of the beverage products that it is exporting, using the Suppliers' unique Supply Arrangement Numbers provided to them by the Scheme Coordinator. It is therefore important that Exporters require their suppliers to provide this information with each transfer of goods.

The Initial Export Supply Statement provides a mechanism for Exporters to make a retrospective claim in relation to exports between when the Scheme was introduced on the 30 June 2018 and the end of April 2019. To make an Initial Export Supply Statement:

- an Exporter must have executed the Deed Poll on or before 15<sup>th</sup> June 2019; and
- submitted the Initial Export Supply Statement by 1<sup>st</sup> July 2019.

Export Supply Statements can be used to claim for exports in the two operating months prior to submission of the Export Supply Statement. Except as allowed under the Initial Export Supply Statement, the Scheme will not pay in respect of exports that were made three or more months prior to lodgement of an Export Supply Statement.

The containers the subject of a claim:

- must have been the subject of a contribution paid by a Supplier to the Scheme Coordinator in relation to the Scheme;
- will not be further Supplied to a person within the Australian Capital Territory;

- must not have not been included in any other Export Supply Statement or Initial Export Supply Statement submitted to the Scheme Coordinator by any person; and
- must not have been supplied in the Australian Capital Territory or export supplied prior to 30 June 2018.

If, in the reasonable opinion of the Scheme Coordinator, an Exporter has engaged in fraudulent conduct in relation to this protocol, the Scheme Coordinator may decline to accept claims from the Exporter.

**The lodgement deadline each month for Export Supply Statements is the 15<sup>th</sup> day (or nearest Business Day) of the month.**

For example, to claim exports made in July 2019 the deadline is Monday 16<sup>th</sup> of September 2019, being the nearest Business Day to the 15<sup>th</sup> of the month two months after the operating month.

## 5. Calculation of amount to be paid

Provided that the Exporter has complied with this protocol and the Deed Poll they may receive payment from the Scheme.

Each month, the Scheme Coordinator advises in advance, for each container material type, the prices per beverage products supplied, for the purpose of calculating Supplier Advance Contributions in advance of each operating month (**advance prices**). The advance prices are also the amount that will be used to calculate the amount payable to Exporters per export.

In other words, the amount to be paid to Exporters will be the advance price multiplied by the number of containers exported, calculated separately and added for each material type to get the total.

Expressed mathematically, the amount  $A_i$  to be paid to the Exporter in respect of month  $i$  is calculated according to the following formula:

$$A_i = \sum_{m \in \text{material types}} (N_{m,i} \times P_{m,i})$$

Where:

- $A_i$  is the amount to be paid to the Exporter in respect of exports made in month  $i$
- $N_{m,i}$  is the number of beverage products in containers of material type  $m$  exported by the Exporter in month  $i$
- $P_{m,i}$  is the advance price per beverage product supplied in a container of material type  $m$  for month  $i$

## 6. Invoicing and Payment

### 6.1 Exporter Invoice and Payment Timing

If the Exporter gives an Export Supply Statement in accordance with this protocol, the Scheme Coordinator will, by the 1st day (or following Business Day) of the calendar month following the lodgement deadline that was met, prepare an invoice on behalf of the Exporter in respect of that Export Supply Statement (Exporter Invoice).

The Scheme Coordinator must pay the Exporter the amount set out as then payable in the Exporter Invoice by the 15th calendar day (or nearest Business Day) of the month following the receipt of the Exporter Supply Statement or the Initial Exporter Supply Statement.

For example, if the Export Supply Statement is provided between:

- 16 August 2019 and 16 September 2019 inclusive:
  - the invoice will be prepared on 1 October 2019 (the first Business Day of August) and
  - paid by 15 October 2019.
- 17 September 2019 and 15 October 2019 inclusive:
  - the invoice will be prepared on 1 November 2019 and
  - paid by 15 November 2019.

Separate timing applies to invoicing and payment for Initial Export Supply Statements. The Scheme Coordinator will prepare an Exporter Invoice in respect of Initial Export Supply Statements within 2 months after the 1<sup>st</sup> July 2019 and will then pay the invoice within 14 days after the date of the invoice.

## 6.2 Adjustments by the Scheme Coordinator

The Scheme Coordinator may, at any time, adjust the amount payable under an Exporter Invoice:

- (a) after the Scheme Coordinator has assessed the validity of claims made in the Exporter Supply Statement or the Initial Export Supply Statement; and
- (b) to account for any previous overpayment identified as a result of an audit.

Confirmation or payment by the Scheme Coordinator of any amount relating to Exporter Invoice:

- (a) does not constitute approval of the information contained in the relevant Export Supply Statement or Initial Export Supply Statement;
- (b) does not constitute approval of the Exporter's compliance with this protocol or the Deed Poll; and
- (c) does not prevent the Scheme Coordinator from requiring a further adjustment to the amount confirmed or paid, to ensure that actual amounts finally paid to the Exporter are the amounts required to be paid in accordance with this protocol and the Deed Poll, taking into account any relevant actual information not available at the time that the calculation or payment of amounts was made.

## 6.3 Right of set-off

The Scheme Coordinator may deduct from any amounts which may or are to be paid to the Exporter by the Scheme Coordinator any debt or moneys due or owing from the Exporter to the Scheme Coordinator.

## 7. Completing the annual Statutory Declaration

The Deed Poll requires completion of a Statutory Declaration within 40 Business Days of the end of each financial year by the means, in the form and with the signatory of a category set out in this protocol.

The Statutory Declaration must be in the form provided in Schedule 1 to this protocol declaring:

- that each Export Supply Statement provided by that Exporter in respect of the previous financial year was true and correct or specifying the extent to which any Export Supply Statement was not true and correct; and
- the number of Export Supplies by that Exporter in the previous financial year:
  - in aggregate in respect of the Australian Capital Territory; and
  - in aggregate for each Container by material type.

The Statutory Declaration must be executed by a director, officer or employee of the Exporter who has responsibility for Export Supplies.

An original executed copy of the Statutory Declaration must be provided to the Scheme Coordinator at the same address as listed in section 3 above.

#### 8. Repayment of overpayment

In the case that an Exporter has been found to be overpaid, the amount of the overpayment will become a debt due to the Scheme. The Scheme Coordinator will issue the Exporter with an invoice for repayment of moneys owed on 14-day payment terms.

#### 9. Consequence of fraud

In addition to potential consequences generally under law, the penalty under the Scheme for fraud may include:

- A requirement to repay previous overpayments;
- Extinguishment of the opportunity to make payment claims; and
- Other potential financial penalties as may be prescribed by the Act and Scheme regulations.

#### 10. Record keeping

Under the Deed Poll, Exporters must provide the Scheme Coordinator with the ability to inspect and audit the Exporter's records. The purpose of this is to ensure Scheme integrity and minimise potential for fraudulent claims against the Scheme.

In order to verify Initial Export Supply Statements and Export Supply Statements, Exporters must keep records that can be used to prove that beverage products were exported, including for example shipping documents or purchase and sale invoices that in combination can be used to verify all the information that is required to be provided in the payment claim statements.

For the purpose of the Scheme, records need to be kept for a minimum of 7 years.

#### 11. GST and taxation

Unless the context requires otherwise, words used in this section that have a specific meaning in the GST law (as defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth)) shall have the same meaning in this clause.

Any amount payable for a supply made under this protocol or the Deed Poll which is calculated by reference to a cost, expense or other amount paid or incurred by a party will be reduced by an amount equal to any input tax credits which that party is entitled to in respect of that cost, expense or other amount.

If GST is payable on any supply made by a party (**GST Supplier**) under or in connection with this protocol or the Deed Poll:

- (a) any amount payable or consideration to be provided under any other provision of this protocol or the Deed Poll for that supply (**Agreed Amount**) is exclusive of GST;
- (b) an additional amount will be payable by the party providing consideration for that supply (**Recipient**), equal to the amount of GST payable on that supply as calculated by the GST Supplier in accordance with the GST Act and payable at the same time and in the same manner as for the Agreed Amount;
- (c) the GST Supplier will provide a tax invoice (or equivalent documentation which complies with the GST Legislation) to the Recipient in respect of that supply, either at the time expressly set out in any other provision of this protocol and the Deed Poll or no later than the time at which the Agreed Amount for that supply is to be provided under this protocol and the Deed Poll; and
- (d) if the GST Supplier does not provide a tax invoice in accordance with the timing set out in clause (c) above, the additional amount payable by the Recipient under clause (b) above is payable within 5 Business Days of the receipt of a tax invoice.

If for any reason, the GST payable by the GST Supplier in respect of a supply it makes under this protocol or the Deed Poll (incorporating any increasing adjustments or decreasing adjustments relating to that supply) varies from the additional amount it receives from the Recipient under the clause (b) above in respect of that supply, the GST Supplier will provide a refund or credit to or will be entitled to receive the amount of this variation from the Recipient (as appropriate). Where an adjustment event occurs in relation to a supply, the GST Supplier will issue an adjustment note to the Recipient in respect of that supply within 10 Business Days after becoming aware of that adjustment event occurring.

A reference to GST payable by a party includes any corresponding GST payable by the representative member of any GST group of which that party is a member, and a reference to an input tax credit entitlement of a party includes any corresponding input tax credit entitlement of the representative member of any GST group of which that party is a member.

Any reference in this protocol or the Deed Poll to fees, value, sales, revenue or a similar amount (**Revenue**) is a reference to that Revenue exclusive of GST.

Any reference in this protocol or the Deed Poll to a cost, expense or other similar amount (**Cost**) is a reference to that Cost exclusive of GST.

**Schedule 1  
Statutory Declaration**

**Australian Capital Territory**

**Statutory Declaration**

Statutory Declarations Act 1959 (Cth)

I, **[Insert declarant's name]** of **[Insert declarant's address]**, **[Insert declarant's occupation]**, make the following declaration under the Statutory Declarations Act 1959 (Cth) that:

1. to the best of my knowledge and belief, the Export Supply Statements (as defined in the Deed Poll given by [\*], ABN [\*] (**Exporter**)) attached to this declaration as Annexure A are true and correct;
2. to the best of my knowledge and belief, the number of Export Supplies claimed by the Exporter in the Australian Capital Territory in the previous financial year:
  - (a) in aggregate in respect of the Australian Capital Territory; and
  - (b) in aggregate for each Container material type is as follows:

No.	Container type	Aggregate number Supplied											
		Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
1.	Aluminium												
2.	Glass												
3.	PET												
4.	HDPE												
5.	Liquid paper board												
6.	Other plastics												
7.	Steel												
8.	Other												
	Total												
Aggregate for ACT													

- (c) in aggregate according to the country, State or Territory to which the Export Supplies were made by the Exporter as follows:

Country, State or Territory exported to	Aggregate number Supplied											
	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
New South Wales												
Northern Territory												
Queensland												
South Australia												
Tasmania												
Victoria												
Western Australia												
Other Country (please specify)												
Total												

3. to the best of my knowledge and belief, each Container referred to in paragraph 2 above:
- (a) has been the subject of a contribution paid by a Supplier to the Scheme Coordinator in relation to the Scheme or is the subject of a prior written exemption provided by the Scheme Coordinator;
  - (b) will not be further Supplied to a person within the Australian Capital Territory; and
  - (c) has not been included in more than one Export Supply Statement or Initial Export Supply Statement by the Exporter.
4. *[insert any other matter prescribed by the Territory or which is otherwise required by the Act or the Regulation from time to time (as notified in writing by the Scheme Coordinator to the Suppliers)].*



I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the Statutory Declarations Act 1959, and I believe that the statements in this declaration are true in every particular.

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[Signature of person making the declaration]

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[Print name of person making the declaration]

Declared at [place] on [day] of [month] [year]

Before me:

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[Signature of person before whom the declaration is made]

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[Full name, qualification and address of person before whom the declaration is made (in printed letters)]

Note 1 A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years – see section 11 of the Statutory Declarations Act 1959.

Note 2 Chapter 2 of the Criminal Code applies to all offences against the Statutory Declarations Act 1959 – see section 5A of the Statutory Declarations Act 1959.

**Annexure**

This is "Annexure A" referred to in the statutory declaration of [*Declarant's name as in statutory declaration*] of [*Declarant's address as in statutory declaration*] made before me this      day of 20...

.....

Signature of person before whom the declaration is made

## A statutory declaration under the Statutory Declarations Act 1959 may be made before—

(1) A person who is currently licensed or registered under a law to practise in one of the following occupations:

Chiropractor	Dentist	Legal practitioner	
Medical practitioner	Nurse		Optometrist
Patent attorney	Pharmacist		Physiotherapist
Psychologist	Trade marks attorney		Veterinary surgeon

(2) A person who is enrolled on the roll of the Supreme Court of a State or Territory, or the High Court of Australia, as a legal practitioner (however described); or

(3) A person who is in the following list:

Agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public  
Australian Consular Officer or Australian Diplomatic Officer (within the meaning of the Consular Fees Act 1955)  
Bailiff

Bank officer with 5 or more continuous years of service

Building society officer with 5 or more years of continuous service

Chief executive officer of a Commonwealth court

Clerk of a court

Commissioner for Affidavits

Commissioner for Declarations

Credit union officer with 5 or more years of continuous service

Employee of the Australian Trade Commission who is:

- (a) in a country or place outside Australia; and
- (b) authorised under paragraph 3 (d) of the Consular Fees Act 1955; and
- (c) exercising his or her function in that place

Employee of the Commonwealth who is:

- (a) in a country or place outside Australia; and
- (b) authorised under paragraph 3 (c) of the Consular Fees Act 1955; and
- (c) exercising his or her function in that place

Fellow of the National Tax Accountants' Association

Finance company officer with 5 or more years of continuous service

Holder of a statutory office not specified in another item in this list

Judge of a court

Justice of the Peace

Magistrate

Marriage celebrant registered under Subdivision C of Division 1 of Part IV of the Marriage Act 1961

Master of a court

Member of Chartered Secretaries Australia

Member of Engineers Australia, other than at the grade of student

Member of the Association of Taxation and Management Accountants

Member of the Australasian Institute of Mining and Metallurgy

Member of the Australian Defence Force who is:

- (a) an officer; or
- (b) a non-commissioned officer within the meaning of the Defence Force Discipline Act 1982 with 5 or more years of continuous service; or
- (c) a warrant officer within the meaning of that Act

Member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the National Institute of Accountants

Member of:

- (a) the Parliament of the Commonwealth; or
- (b) the Parliament of a State; or
- (c) a Territory legislature; or
- (d) a local government authority of a State or Territory

Minister of religion registered under Subdivision A of Division 1 of Part IV of the Marriage Act 1961

Notary public

Permanent employee of the Australian Postal Corporation with 5 or more years of continuous service who is employed in an office supplying postal services to the public

Permanent employee of:

- (a) the Commonwealth or a Commonwealth authority; or
- (b) a State or Territory or a State or Territory authority; or
- (c) a local government authority;

with 5 or more years of continuous service who is not specified in another item in this list

Person before whom a statutory declaration may be made under the law of the State or Territory in which the declaration is made

Police officer

Registrar, or Deputy Registrar, of a court

Senior Executive Service employee of:

- (a) the Commonwealth or a Commonwealth authority; or
- (b) a State or Territory or a State or Territory authority

Sheriff

Sheriff's officer

Teacher employed on a full-time basis at a school or tertiary education institution