

# Customs Export Prohibition Order 1996

(SR 1996/233)

Customs Export Prohibition Order 1996: expired, on 1 October 2002, by clause 1A.

PURSUANT to section 56 of the Customs and Excise Act 1996, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

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### **1 Title and commencement**

- (1) This order may be cited as the Customs Export Prohibition Order 1996.

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#### **Note**

This order is administered in the New Zealand Customs.

- (2) This order shall come into force on the 1st day of October 1996  
Clause 1(2): amended, on 27 September 1999, by clause 2 of the Customs Export Prohibition Amendment Order 1999.

### **1A Expiry**

This order expires on the close of 30 September 2002.

Clause 1A: inserted, on 27 September 1999, by clause 3 of the Customs Export Prohibition Amendment Order 1999 (SR 1999/270).

### **2 Prohibited agriculture exports**

The exportation of the following goods is prohibited, except with the consent of the Minister for Food, Fibre, Biosecurity and Border Control and subject to such conditions as the Minister thinks fit to impose:

- (a) live merino and booroola-merino sheep exported for breeding purposes:
- (b) reproductive material (ova, semen, embryo) of merino and booroola-merino sheep.

Clause 2: substituted, on 1 January 2000, by section 197(1) of the Animal Welfare Act 1999 (1999 No 142).

### **3 Prohibited greenstone exports**

- (1) The exportation of pounamu in its natural state, and partly or wholly processed pounamu, is prohibited, except with the consent of the Minister for Food, Fibre, Biosecurity and Border Control, and subject to such conditions (if any) not inconsistent with this prohibition as may be imposed by the Minister.
- (2) The Minister may give his or her consent as provided in subclause (1) only on written advice—
  - (a) from Te Runanga o Ngai Tahu; or
  - (b) if the pounamu is extracted from the catchment of the Arahura river, from the Mawhera Incorporation.
- (3) This prohibition does not apply to—
  - (a) articles made from pounamu (for example, jewellery containing pounamu):
  - (b) pieces of pounamu included in a display of New Zealand minerals where the pounamu—
    - (i) does not exceed 1.64 cm<sup>3</sup> in overall dimensions; and

- (ii) is polished on 1 side only; and
- (iii) is reject stone.

(4) In this prohibition,—

**Mawhera Incorporation** has the meaning given to that term by section 8 of the Ngai Tahu Claims Settlement Act 1998

**Pounamu** has the meaning given to that term by section 2 of the Ngai Tahu (Pounamu Vesting) Act 1997

**Te Runanga o Ngai Tahu** means Te Runanga o Ngai Tahu as established by section 6 of Te Runanga o Ngai Tahu Act 1996.

Clause 3: substituted, on 27 September 1999, by clause 5 of the Customs Export Prohibition Amendment Order 1999 (SR 1999/270).

#### **4 Prohibited timber exports**

*[Revoked]*

Clause 4: revoked, on 27 September 1999, by clause 6 of the Customs Export Prohibition Amendment Order 1999 (SR 1999/270).

#### **5 Prohibited fisheries exports**

The exportation of the following goods is hereby prohibited, except with the consent of the Minister for Food, Fibre, Bio-security and Border Control and subject to such conditions (if any) not inconsistent with this prohibition as may be imposed by the Minister:

- (a) live New Zealand greenshell mussels with a shell size of less than 50mm in length:
- (b) *[Revoked]*
- (c) Toheroa.

Clause 5: amended, on 27 September 1999, by clause 7 of the Customs Export Prohibition Amendment Order 1999 (SR 1999/270).

Clause 5(b): revoked, on 1 December 1998, by clause 2 of the Customs Export Prohibition Amendment Order 1998 (SR 1998/324).

#### **6 Prohibited copper exports**

*[Revoked]*

Regulation 6: revoked, on 1 January 1998, by regulation 2 of the Customs Export Prohibition Amendment Order 1997 (SR 1997/315).

#### **7 Prohibited waste exports**

(1) The exportation of—

- (a) any hazardous waste:
  - (b) any other waste,—  
is hereby prohibited, except with the consent of the Minister for Enterprise and Commerce and subject to such conditions (if any) not inconsistent with this prohibition as may be imposed by the Minister.
- (2) In this prohibition,—
- Basel Convention** means the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, adopted at Basel on the 22nd day of March 1989
- hazardous waste** means any waste that—
- (a) either—
    - (i) falls into one of the categories of waste specified in Part 1 of Schedule 1 to this order, or
    - (ii) has as a constituent any substance specified in Part 2 of Schedule 1 to this order; and
  - (b) has any of the hazardous characteristics specified in Part 3 of Schedule 1 to this order:
- other waste** means—
- (a) any waste collected from households:
  - (b) any residue from the incineration of household wastes:
- waste** means any substance or object—
- (a) that is intended to be disposed of by any of the methods specified in Part 4 of Schedule 1 to this order; or
  - (b) that is required, by any law of New Zealand, to be disposed of by any of the methods specified in Part 4 of Schedule 1 to this order.
- (3) The hazardous waste or other waste that may be exported from New Zealand with the consent of the Minister under this order is any hazardous waste or other waste—
- (a) either—
    - (i) whose exportation is to a country that is a Party to the Basel Convention and that has not prohibited the importation of such wastes; or
    - (ii) whose exportation is to a country that has consented, in writing, to the specific importation of such wastes; or

- (iii) that New Zealand does not have the technical capacity, or the necessary facilities or capacity, or suitable disposal sites, to dispose of in an environmentally sound and efficient manner, and that is able to be so disposed of in the importing country; or
  - (iv) that is required as a raw material for any recycling or recovery industry in the importing country; or
  - (v) whose exportation is in accordance with any criteria decided by the parties to the Basel Convention; and
- (b) whose exportation is otherwise in conformity with New Zealand's obligations under the Basel Convention.

Clause 7(1): amended, on 27 September 1999, by clause 8 of the Customs Export Prohibition Amendment Order 1999 (SR 1999/270).

## **8 Prohibited weapons and dual-use weapon-related exports**

The exportation of the goods specified in Schedule 2 to this order is hereby prohibited, except with the consent of the Secretary of Foreign Affairs and Trade and subject to such conditions (if any) not inconsistent with this prohibition as may be imposed by the Secretary.

Clause 8: amended, on 27 September 1999, by clause 9 of the Customs Export Prohibition Amendment Order 1999 (SR 1999/270).

## **9 Revocation**

The Export Prohibition Regulations 1953 (SR 1953/179) are hereby consequentially revoked.

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# **Schedule 1**

## **Prohibited Waste Exports**

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### Part 1

#### Waste streams

- Clinical waste from medical care in hospitals, medical centres, or clinics.

Part 1—*continued*

- Waste from the production or preparation of pharmaceutical products.
- Waste pharmaceuticals, drugs, and medicines.
- Waste from the production, formulation, or use of biocides or phytopharmaceuticals.
- Waste from the manufacture, formulation, or use of wood preserving chemicals.
- Waste from the production, formulation, or use of organic solvents.
- Waste from heat treatment or tempering operations and containing cyanides.
- Waste mineral oils unfit for originally intended use.
- Waste mixtures of—
  - (i) Oil and water:
  - (ii) Hydrocarbon and water.
- Waste substances or articles containing, or contaminated with, one or more of the following substances:
  - (i) Polychlorinated biphenyls (PCBs):
  - (ii) Polychlorinated terphenyls (PCTs):
  - (iii) Polybrominated biphenyls (PBBs).
- Waste tarry residues arising from refining or distillation, or any pyrolytic treatment.
- Waste from the production, formulation, or use of inks, dyes, pigments, paints, lacquers, or varnish.
- Waste from the production, formulation, or use of resins, latex, plasticisers, or glues or other adhesives.
- Waste chemical substances—
  - (i) That arise from research and development or teaching activities; and
  - (ii) That are not identified or are new, or both; and
  - (iii) Whose effects on humans or the environment, or both, are not known.
- Waste from the production, formulation, or use of photographic chemicals or photographic processing materials.
- Waste resulting from the surface treatment of metals or plastics.

Part 1—*continued*

- Waste arising from industrial waste disposal operations.

Part 2

Hazardous constituents

- Metal carbonyls
- Beryllium and beryllium compounds
- Hexavalent chromium compounds
- Copper compounds
- Zinc compounds
- Arsenic and arsenic compounds
- Selenium and selenium compounds
- Cadmium and cadmium compounds
- Antimony and antimony compounds
- Tellurium and tellurium compounds
- Mercury and mercury compounds
- Thallium and thallium compounds
- Lead and lead compounds
- Inorganic fluorine compounds (excluding calcium fluoride)
- Inorganic cyanides
- Acidic solutions and acids in solid form
- Basic solutions and bases in solid form
- Asbestos (dust or fibres)
- Organic phosphorous compounds
- Organic cyanides
- Phenols and phenol compounds (including chlorophenols)
- Ethers
- Halogenated organic solvents
- Organic solvents (excluding halogenated solvents)
- Any congener of polychlorinated dibenzo-furan
- Any congener of polychlorinated dibenzo-p-dioxin
- Organohalogen compounds (other than any substance referred to elsewhere in this Part of this Schedule)

### Part 3

#### Hazardous characteristics

In this Schedule, **flammable** has the same meaning as the word **inflammable**.

#### 1 Explosive characteristics

A waste has explosive characteristics if—

- (a) That waste is solid or liquid, or contains or is mixed with substances that are solid or liquid; and
- (b) That waste, or any solid or liquid that it contains or that it is mixed with, is capable, by chemical reaction, of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.

#### 2 Liquids that have flammable characteristics

A liquid waste has flammable characteristics if that waste—

- (a) Is in liquid form, or is a liquid that contains solids in solution or suspension (including, by way of example only, paints, varnishes, and lacquers); and
- (b) Gives off a flammable vapour at temperatures of not more than 60.5°C (using the closed-cup test), or not more than 65.6°C (using the open-cup test).

#### 3 Solids that have flammable characteristics

A solid waste has flammable characteristics if that waste (not being a waste to which clause 1 of this Part of this Schedule applies), under conditions encountered in transport, is readily combustible, or may cause or contribute to fire through friction.

#### 4 Characteristics of being liable to spontaneous combustion

A waste has the characteristic of being liable to spontaneous combustion if that waste—

- (a) Is liable to spontaneous heating under normal conditions encountered in transport; or
- (b) Is liable to heating up on contact with air, and, as a result, is liable to catch fire.

Part 3—*continued*

- 5 Wastes that, in contact with water, emit flammable gases**  
A waste has the characteristic of emitting flammable gases in contact with air if that waste, by interaction with water,—
- (a) Is liable to become spontaneously flammable; or
  - (b) Is liable to give off flammable gases in dangerous quantities.
- 6 Oxidising characteristics**  
A waste has oxidising characteristics if that waste, while in itself not necessarily combustible, may, generally by yielding oxygen, cause, or contribute to, the combustion of other materials.
- 7 Characteristic of being an organic peroxide**
- (1) A waste that falls into one of the categories of waste specified in Part 1 of this Schedule to this order has the characteristic of being an organic peroxide if that waste—
    - (a) Contains the bivalent -O-O- structure; and
    - (b) Is thermally unstable and may undergo exothermic self-accelerating decomposition.
  - (2) A waste that has as a constituent any substance specified in Part 2 of this Schedule to this order has the characteristic of being an organic peroxide if that waste is thermally unstable and may undergo exothermic self-accelerating decomposition.
- 8 Acutely poisonous characteristics**  
A waste has the characteristic of being acutely poisonous if that waste—
- (a) Is liable to cause death or serious injury; or
  - (b) Is liable to harm human health—  
if swallowed or inhaled, or through skin contact.
- 9 Characteristic of being infectious**  
A waste has the characteristic of being infectious if—
- (a) That waste contains viable micro organisms, or toxins of such micro organisms; and

Part 3—*continued*

- (b) Those micro organisms or those toxins are known to cause, or are suspected of causing, disease in animals or humans.

**10 Corrosive characteristics**

A waste has corrosive characteristics if that waste, by chemical action,—

- (a) Will cause severe damage when in contact with living tissue; or
- (b) In the case of leakage, will materially damage or destroy its means of transport or other goods.

**11 Characteristics that result in the liberation of toxic gases where in contact with air or water**

A waste has the characteristic of resulting in the liberation of toxic gases where in contact with air or water if that waste, by interaction with air or water, is liable to give off toxic gases in dangerous quantities.

**12 Toxic characteristics (delayed or chronic)**

A waste has toxic characteristics if that waste, through inhalation, ingestion, or penetration of the skin, may involve delayed or chronic effects, including carcinogenicity.

**13 Ecotoxic characteristics**

A waste has ecotoxic characteristics if that waste, if released, would or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation, or toxic effects upon biotic systems, or both.

**14 Other hazardous characteristics**

A waste has other hazardous characteristics if that waste is capable by any means, after disposal by any of the methods specified in Part 4 of this Schedule to this order, of yielding another material (including, by way of example only, leachate) that possesses any of the characteristics specified in any of clauses 1 to 13 of this Part of this Schedule.

## Part 4

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### Methods of disposal of wastes

Methods of disposal that do not lead to the possibility of re-source recovery, recycling, reclamation, direct re-use, or alternative uses:

- (a) Deposit into or onto land (including by way of example only, landfill):
- (b) Land treatment (including, by way of example only, biodegradation of liquid or sludgy discards in soils):
- (c) Deep injection (including, by way of example only, injection of pumpable discards into wells, salt domes, or naturally occurring repositories):
- (d) Surface impoundment (including, by way of example only, placement of liquid or sludge discards into pits, ponds, or lagoons):
- (e) Specially engineered landfill (including, by way of example only, placement into lined discrete cells which are capped and isolated from one another and the environment):
- (f) Release into a water body (not being sea or an ocean):
- (g) Release into a sea or an ocean (including sea-bed insertion):
- (h) Incineration on land:
- (i) Incineration at sea:
- (j) Permanent storage (including by way of example only, emplacement of containers in a mine):
- (k) Any biological treatment that results in final compounds of mixtures which are discarded by means of any of the methods specified in any of paragraphs (a) to (j) or in paragraph (l) of this clause:
- (l) Physico chemical treatment that results in final compounds or mixtures that are discarded by means of any of the methods specified in any of paragraphs (a) to (k) of this clause (including, by way of example only, evaporation, drying, calcination, neutralisation, or precipitation):
- (m) Blending or mixing prior to disposal by any of the methods specified in any of paragraphs (a) to (l) of this clause:

Part 4—*continued*

- (n) Repackaging prior to disposal by any of the methods specified in any of paragraphs (a) to (l) of this clause:
- (o) Storage pending disposal by any of the methods specified in any of paragraphs (a) to (l) of this clause.

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Methods of disposal that may lead to resource recovery, recycling, reclamation, direct re-use, or alternative uses, where the waste being disposed of would otherwise have been destined for disposal by any of the methods specified in clause 1 of this Part of this Schedule:

- (a) Use as a fuel (other than in direct incineration) or other means to generate energy:
  - (b) Solvent reclamation or regeneration:
  - (c) Recycling or reclamation of organic substances not used as solvents:
  - (d) Recycling or reclamation of metals and metal compounds:
  - (e) Recycling or reclamation of other inorganic materials:
  - (f) Regeneration of acids or bases:
  - (g) Recovery of components used for pollution abatement:
  - (h) Recovery of components from catalysts:
  - (i) Re-refining of used oil, or other re-uses of previously used oil:
  - (j) Land treatment resulting in a benefit to agriculture or in ecological improvement:
  - (k) Uses of residual materials obtained from any of the methods specified in any of paragraphs (a) to (j) of this clause:
  - (l) Exchange of wastes for disposal by any of the methods specified in any of paragraphs (a) to (k) of this clause:
  - (m) Accumulation of material intended for disposal by any of the methods specified in any of paragraphs (a) to (l) of this clause.
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## **Schedule 2**

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### **Prohibited weapons and dual-use weapon-related exports**

#### **Part 1**

##### **Nuclear weapon related dual-use goods**

Dual-use goods that may have application in a nuclear weapons programme. Lists of such goods are available from the Head Office of the Ministry of Foreign Affairs and Trade in Wellington for inspection by the public free of charge.

#### **Part 2**

##### **Chemical weapons precursors**

Precursor chemicals, except where such chemicals are subject to prohibitions and consents applying by virtue of section 10 of the Chemical Weapons (Prohibition) Act 1996. Lists of such goods are available from the Head Office of the Ministry of Foreign Affairs and Trade in Wellington for inspection by the public free of charge.

#### **Part 3**

##### **Biological agents**

Biological agents. Lists of such agents are available from the Head Office of the Ministry of Foreign Affairs and Trade in Wellington for inspection by the public free of charge.

#### **Part 4**

##### **Certain conventional weapons and other dual-use goods**

Certain conventional weapons, and other dual-use goods that are intended for military use or may have military applications or may be used for the production of military goods or goods that may have military applications. Lists of the goods concerned are available from the Head Office of the Ministry of Foreign Affairs and Trade in Wellington for inspection by the public free of charge.

MARIE SHROFF,  
Clerk of the Executive Council.

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### **Explanatory note**

*This note is not part of the order, but is intended to indicate its general effect.*

This order, which comes into force on 1 October 1996, prohibits the exportation of various goods under the provisions of the Customs and Excise Act 1996 except with the relevant Ministerial consent.

The prohibited exports are—

- (a) Cattle, goats, sheep, the reproductive material of sheep, and deer:
- (b) New Zealand greenstone:
- (c) Certain indigenous timber and indigenous timber products:
- (d) Certain greenshell mussels, Bluff oysters, and toheroa:
- (e) Certain copper exports:
- (f) Hazardous and other waste:
- (g) Dual-use goods that may have application in a nuclear weapons programme:
- (h) Certain chemical weapons precursors:
- (i) Biological agents:
- (j) Certain conventional weapons, and other dual-use goods that are intended for military use or may have military applications or may be used for the production of military goods or goods that may have military applications.

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