



# **Product Stewardship (Oil) Act 2000**

**No. 102, 2000**

## **Compilation No. 10**

<b>Compilation date:</b>	8 September 2020
<b>Includes amendments up to:</b>	Act No. 82, 2020
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Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Product Stewardship (Oil) Act 2000* that shows the text of the law as amended and in force on 8 September 2020 (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](http://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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# **An Act to provide for grants for the recycling of oils, and for related purposes**

## **Part 1—Preliminary**

### **1 Short title**

This Act may be cited as the *Product Stewardship (Oil) Act 2000*.

### **2 Commencement**

- (1) Parts 1, 3 and 4 commence on the day on which this Act receives the Royal Assent.
- (2) Part 2 commences on the later of:
  - (a) 1 January 2001; and
  - (b) the day on which this Act receives the Royal Assent.

### **3 Objects**

The objects of this Act are:

- (a) to develop a product stewardship arrangement for used oils; and
- (b) to ensure the environmentally sustainable management, re-refining and reuse of used oil; and
- (c) to support economic recycling options for used oil.

### **4 Extension to external Territories**

This Act extends to all the external Territories.

### **4A Alternative constitutional basis**

- (1) Without limiting its effect apart from this section, this Act also has effect as provided by this section.

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- (2) This Act also has the effect it would have if its operation in relation to product stewardship (oil) benefits were expressly confined to an operation limited to product stewardship (oil) benefits in relation to external affairs.
- (3) This Act also has the effect it would have if its operation in relation to product stewardship (oil) benefits were expressly confined to an operation limited to product stewardship (oil) benefits in relation to taxation.

## 5 States and Territories are bound

This Act binds the Crown in right of each of the States, of the Australian Capital Territory and of the Northern Territory. However, it does not make the Crown liable to be prosecuted for an offence.

## 6 Definitions

- (1) In this Act, unless the contrary intention appears:

***Australia*** includes all the Territories.

***Department*** means the Department responsible for the administration of the *Environment Protection and Biodiversity Conservation Act 1999*.

***gazetted oil*** means oil of a kind that is declared by the Minister, by notice published in the *Gazette*, to be gazetted oil.

***gazetted use***, in relation to gazetted oil, means a use of the oil that is declared by the Minister, by notice published in the *Gazette*, to be a gazetted use, being:

- (a) a use in the manufacture of a product:
  - (i) that will not permit the oil to be recycled; and
  - (ii) that constitutes only a low risk to the environment; or
- (b) a use in a process:
  - (i) that will not permit the oil to be recycled; and
  - (ii) that constitutes only a low risk to the environment.

**Minister** means the Minister responsible for the administration of the *Environment Protection and Biodiversity Conservation Act 1999*.

**oils** means the following:

- (a) petroleum based oils that are:
  - (i) lubricant base oils; or
  - (ii) prepared lubricant additives containing carrier oils; or
  - (iii) lubricants for engines, gear sets, pumps and bearings; or
  - (iv) greases; or
  - (v) hydraulic fluids; or
  - (vi) brake fluids; or
  - (vii) transmission oils; or
  - (viii) transformer and heat transfer oils;
- (b) synthetic equivalents of goods covered by paragraph (a);
- (c) any other goods prescribed for the purposes of this paragraph.

However, the following are not oils:

- (d) diesel;
- (e) blends of diesel and any other goods;
- (f) goods ordinarily used as a fuel;
- (g) any other goods prescribed for the purposes of this paragraph.

Note: This definition was substituted by the *Product Stewardship (Oil) Amendment Act 2020*. It was substituted as a response to the decision of the Federal Court of Australia in *Caltex Australia Petroleum Pty Ltd v Commissioner of Taxation* [2019] FCA 1849.

**product stewardship (oil) benefit** means a grant payable under this Act.

**recycled oil** means:

- (a) goods produced from used oil; or
- (b) used oil that has been restored to its former state.

**recycling of oils** means:

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- (a) the production of goods from used oils; or
- (b) the restoring of used oils to their former state.

***used oil*** means any oil that has been used and that, as a result of such use, is contaminated by physical or chemical impurities.

- (2) An expression used in this Act that is also used in the *Product Grants and Benefits Administration Act 2000* has the same meaning as in that Act, unless the contrary intention appears.

### 7 Commissioner has general administration of this Act

The Commissioner has the general administration of this Act.

Note: An effect of this provision is that the *Taxation Administration Act 1953* applies to this Act as a taxation law. This means, for example, that people who acquire information under this Act are subject to the confidentiality obligations and exceptions in Division 355 in Schedule 1 to the *Taxation Administration Act 1953*.



## **Part 2—Entitlement to product stewardship (oil) benefits**

### **8 Registration must precede a claim for product stewardship (oil) benefit**

- (1) Despite the other provisions of this Part, you are not entitled to a product stewardship (oil) benefit unless you were registered for entitlement to product stewardship (oil) benefits when you made a claim for payment of the product stewardship (oil) benefit.

Note: You register for product stewardship (oil) benefits under the *Product Grants and Benefits Administration Act 2000*.

- (2) For the purposes of subsection (1), if you make a claim in respect of an entitlement that is referred to in subsection 9(1):
- (a) after, or at the same time as, you apply for registration; but
  - (b) before you are registered;
- the claim is taken to have been made immediately after you are registered.
- (3) For the purposes of subsection (1), if you make a claim in respect of an entitlement referred to in subsection 9(3):
- (a) after the introduction into the Parliament of the Bill for the *Product Stewardship (Oil) Legislation Amendment Act (No. 1) 2003*; but
  - (b) before you are registered;
- the claim is taken to have been made immediately after you are registered.

### **9 Entitlement to product stewardship (oil) benefits**

- (1) You are entitled to a product stewardship (oil) benefit for the sale or consumption of recycled oil that you have recycled in Australia.

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- (2) However, you are not entitled to a product stewardship (oil) benefit for the sale or consumption of recycled oil referred to in subsection (1) before the later of:
  - (a) the commencement of this section; and
  - (b) the date on which you applied for registration, in relation to product stewardship (oil) benefit, under the *Product Grants and Benefits Administration Act 2000*.
- (3) You are entitled to a product stewardship (oil) benefit for the consumption in Australia of gazetted oil for a gazetted use.
- (4) However, you are not entitled to a product stewardship (oil) benefit for the consumption of gazetted oil for a gazetted use before the introduction into the Parliament of the Bill for the *Product Stewardship (Oil) Legislation Amendment Act (No. 1) 2003*.

### **10 Amounts of product stewardship (oil) benefit**

- (1) If you are entitled to a product stewardship (oil) benefit in respect of the sale or consumption of recycled oil, or the consumption of gazetted oil for a gazetted use, during a claim period, the amount of the product stewardship (oil) benefit for the claim period is worked out in accordance with the regulations.
- (2) Without limiting the matters that may be taken into account under regulations made for the purposes of subsection (1) in respect of the sale or consumption of recycled oil, the matters may include:
  - (a) the volume of the recycled oil that you sold or consumed; and
  - (b) the quality of the recycled oil that you sold or consumed; and
  - (c) the use of, or intended use for, the recycled oil.
- (2A) Without limiting the matters that may be taken into account under regulations made for the purposes of subsection (1) in relation to the consumption of gazetted oil for a gazetted use, the matters may include:
  - (a) the volume of the gazetted oil that you consumed for that use; and

- (b) the quality of the gazetted oil that you consumed for that use; and
  - (c) particulars of the gazetted use to which you put the gazetted oil.
- (3) To avoid doubt:
  - (a) the regulations may provide that no benefit is payable in respect of recycled oil (including gazetted oil obtained through recycling) that is to undergo further recycling before it is to be sold to the end user or consumed; and
  - (b) the amount of a benefit in respect of the sale or consumption of recycled oil, or of gazetted oil for a gazetted use, may be a nil amount.
- (4) Before the Governor-General makes a regulation under subsection (1), the Minister must take into consideration:
  - (a) the total amount that it is estimated will be collected under relevant items in the *Customs Tariff Act 1995* and the *Excise Tariff Act 1921* in the relevant period; and
  - (b) any relevant environmental matters relating to the recycling of oils or to the use of gazetted oil.
- (5) Despite section 14 of the *Legislation Act 2003*, regulations made for the purposes of subsection (1) may apply, adopt or incorporate any matter contained in a written instrument specifying:
  - (a) oil testing methods; or
  - (b) standards for the accreditation of laboratories undertaking oil testing;as in force or existing from time to time.

## Part 4—Miscellaneous

### 33 Delegation by Secretary

- (1) The Secretary of the Department may, by writing, delegate to an SES employee or acting SES employee all or any of the functions and powers conferred on the Secretary by this Act.
- (2) A delegate is, in the exercise of a power delegated under subsection (1), subject to the directions of the Secretary.

### 34 Delegation by Minister

- (1) The Minister may, by writing, delegate to:
  - (a) the Secretary of the Department; or
  - (b) an SES employee or acting SES employee;all or any of the functions and powers conferred on the Minister by this Act.
- (2) A delegate is, in the exercise of a power delegated under subsection (1), subject to the directions of the Minister.

### 35 Annual report by Minister

As soon as practicable after the end of each financial year, the Minister must cause to be laid before each House of the Parliament a report relating to:

- (a) the operation of the product stewardship arrangements for oil (including this Act); and
- (b) any other matters that the Minister thinks relevant.

### 36 Review of operation of Act

- (1) The Minister must cause an independent review of:
  - (a) the operation of this Act; and
  - (b) relevant provisions of customs and excise legislation; and

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- (c) the extent to which the objects set out in section 3 have been achieved;  
to be undertaken within 4 years after the commencement of this Act and thereafter at intervals of not longer than 4 years.
- (2) The persons who undertake such a review must give the Minister a written report of the review.
- (3) The Minister must cause a copy of each report to be tabled in each House of the Parliament within 15 sitting days of that House after its receipt by the Minister.
- (4) In this section:

***independent review*** means a review undertaken by 2 or more persons who:

- (a) in the Minister's opinion possess appropriate qualifications to undertake the review; and
- (b) include one or more persons who are not APS employees.

### **37 Regulations**

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## Endnotes

### Endnote 1—About the endnotes

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## 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

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Endnote 1—About the endnotes

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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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#### Endnote 2—Abbreviation key

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

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Product Stewardship (Oil) Act 2000	102, 2000	6 July 2000	s 8–10: 1 Jan 2001 (s 2(2)(a)) Remainder: 6 July 2000 (s 2(1))	
Product Stewardship (Oil) Legislation Amendment Act (No. 1) 2003	79, 2003	14 Aug 2003	Sch 1: 1 Dec 2003 (s 2(1) item 2)	—
Product Stewardship (Oil) Amendment Act 2007	155, 2007	24 Sept 2007	Sch 1: 24 Mar 2008 (s 2(1) item 2)	—
Tax Laws Amendment (Confidentiality of Taxpayer Information) Act 2010	145, 2010	16 Dec 2010	Sch 2 (item 66): 17 Dec 2010 (s 2(1) item 2)	—
Norfolk Island Legislation Amendment Act 2015	59, 2015	26 May 2015	Sch 2 (item 313): 1 July 2016 (s 2(1) item 5) Sch 2 (items 356–396): 18 June 2015 (s 2(1) item 6)	Sch 2 (items 356–396)
<b>as amended by</b>				
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 2: 24 Mar 2016 (s 2(1) item 2)	—
Tax and Superannuation Laws Amendment (2015 Measures No. 1) Act 2015	70, 2015	25 June 2015	Sch 6 (item 42): 25 June 2015 (s 2(1) item 15)	—

## Endnotes

### Endnote 3—Legislation history

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 484): 5 Mar 2016 (s 2(1) item 2)	—
Statute Update (Smaller Government) Act 2018	4, 2018	20 Feb 2018	Sch 2: 21 Feb 2018 (s 2(1) item 1)	Sch 2 (item 5)
Product Stewardship (Oil) Amendment Act 2020	82, 2020	7 Sept 2020	8 Sept 2020 (s 2(1) item 1)	Sch 1 (item 2)

## Endnote 4—Amendment history

## Endnote 4—Amendment history

Provision affected	How affected
<b>Part 1</b>	
s 3 .....	am No 155, 2007
s 4A .....	ad No 70, 2015
s 5 .....	am No 59, 2015
s 6 .....	am No 79, 2003; No 155, 2007; No 4, 2018; No 82, 2020
s 7 .....	am No 145, 2010
<b>Part 2</b>	
s 8 .....	am No 79, 2003
s 9 .....	am No 79, 2003
s 10 .....	am No 79, 2003; No 155, 2007; No 126, 2015; No 4, 2018
Part 3 .....	rep No 4, 2018
s 11 .....	rep No 4, 2018
s 12 .....	am No 155, 2007
	rep No 4, 2018
s 13 .....	am No 155, 2007
	rep No 4, 2018
s 14 .....	am No 155, 2007
	rep No 4, 2018
s 15 .....	am No 155, 2007
	rep No 4, 2018
s 16 .....	rep No 4, 2018
s 17 .....	rep No 4, 2018
s 18 .....	rep No 4, 2018
s 19 .....	rep No 4, 2018
s 20 .....	rep No 4, 2018
s 21 .....	am No 155, 2007
	rep No 4, 2018
s 22 .....	am No 155, 2007

## Endnotes

### Endnote 4—Amendment history

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Provision affected	How affected
	rep No 4, 2018
s 23 .....	am No 155, 2007
	rep No 4, 2018
s 24 .....	am No 155, 2007
	rep No 4, 2018
s 25 .....	am No 155, 2007
	rep No 4, 2018
s 26 .....	rep No 4, 2018
s 27 .....	am No 155, 2007
	rep No 4, 2018
s 28 .....	rep No 4, 2018
s 29 .....	am No 155, 2007
	rep No 4, 2018
s 30 .....	rep No 4, 2018
s 31 .....	rep No 4, 2018
s 32 .....	rep No 4, 2018