

## Container Export Protocol

This document is the Container Export Protocol (**protocol**) referenced in the Exporter Deed Poll (the **Deed Poll**) for the NSW Container Deposit Scheme (the **Scheme**) that is in effect under the Waste Avoidance and Resource Recovery 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 NSW.

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 State have no obligation, whether under contract or any other basis, to the Exporter in relation to this protocol; and
- the Scheme Coordinator and the State 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 New South Wales for the first time where that beverage product has been previously Supplied by a Supplier in New South Wales. 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 38 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 <https://returnandearn.org.au/partners/drinks-suppliers/exporter-sign-up/>

If the Exporter has already registered as a Supplier in NSW 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 NSW 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 in December 2017 and the end of November 2018. To make an Initial Export Supply Statement:

- an Exporter must have executed the Deed Poll on or before 15 November 2018; and
- submitted the Initial Export Supply Statement by 1 December 2018.

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 New South Wales;
- 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 New South Wales or export supplied prior to 1 December 2017.

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 October 2018 the deadline is Friday 14<sup>th</sup> of December 2018, 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 examples, if the Export Supply Statement is provided between:

- 16 November 2018 and 14 December 2018 inclusive:

- the invoice will be prepared on 2 January 2019 (the first Business Day of January) and
- paid by 15 January 2019.
- 15 December 2018 and 15 January 2019 inclusive:
  - the invoice will be prepared on 1 February 2019 and
  - paid by 15 February 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 of receipt 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 New South Wales; 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 of 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:

- 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;
- 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**

**Statutory Declaration  
New South Wales**

**Statutory Declaration**

I, *[Insert declarant's name]* of *[Insert declarant's address]*, *[Insert declarant's occupation]*, do solemnly and sincerely declare 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 New South Wales in the previous financial year:
  - (a) in aggregate in respect of New South Wales; 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 NSW													

- (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
ACT												
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 New South Wales; 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 State 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 Exporters)].*

**And I make** this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1900 (NSW).

**Declared at**  
this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
Before me:

\_\_\_\_\_  
Signature of person before whom the declaration is made

\_\_\_\_\_  
Signature of declarant

\_\_\_\_\_  
Full name, qualification and address of person before whom the declaration is made

And as a witness, I certify the following matters concerning the person who made this declaration (**declarant**):

[\**strike out the text that does not apply*]

1. \*I saw the face of the declarant.  
*OR*  
\*I did not see the face of the declarant because he/she was wearing a face covering, but I am satisfied that he/she had a special justification for not removing it.
  
2. \*I have known the person for at least 12 months.  
*OR*  
\*I confirmed the person's identity using the following identification document:

\_\_\_\_\_  
–  
Identification document relied on  
(may be original or certified copy)

\_\_\_\_\_  
Signature of person before whom the declaration is made

**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