

Reprint
as at 21 November 2019



Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 (SR 2004/202)

Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 28th day of June 2004

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to sections 3(1) and 3A(1) of the Imports and Exports (Restrictions) Act 1988, Her Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council, makes the following order.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This order is administered by the Ministry of Business, Innovation, and Employment.

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Order

1 Title

This order is the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004.

2 Commencement

This order comes into force on the 28th day after the date of its notification in the *Gazette*.

3 Revocation

- (1) The Imports and Exports (Restrictions) Prohibition Order 2004 (SR 2004/12) is revoked.
- (2) Clause 7 and Schedule 1 of the Customs Export Prohibition Order 2002 (SR 2002/256) are revoked.
- (3) The Import Control (Wastes) Conditional Prohibition Order 1994 (SR 1994/289) is revoked.

4 Interpretation

In this order, unless the context otherwise requires,—

Act means the Imports and Exports (Restrictions) Act 1988

annual certification means a certificate provided annually to New Zealand by an importing State that—

- (a) specifies the intended use of the chemicals; and
- (b) includes a statement of the matters referred to in Article 3(2)(b)(iii) of the Stockholm Convention

banned chemical means a chemical—

- (a) within the meaning of that term as defined by Article 2 of the Rotterdam Convention; and
- (b) to which the Rotterdam Convention applies

Basel Convention means the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, done at Basel on 22 March 1989; and includes the Annexes to the Convention, and any amendments to, or substitutions of, those documents that are or will become binding on New Zealand

Basel Party means a Party to the Basel Convention

exportation has the meaning set out in clause 5

hazardous waste—

- (a) means any waste that—
 - (i) either falls into a category of waste specified in Part 1 of Schedule 3 or has as a constituent any substance specified in Part 2 of Schedule 3; and
 - (ii) has any of the hazardous characteristics specified in Part 3 of Schedule 3; and
- (b) includes, in relation to exportation to or importation from a Basel Party, any other waste if the Basel Party has informed the Secretariat of the Basel Convention that the waste is considered or defined as hazardous under the Basel Party's national legislation; and
- (c) includes, in relation to exportation to or importation from an OECD member country,—
 - (i) any other waste if the OECD member country has informed the OECD Secretariat that the waste is considered or defined as hazardous under the OECD member country's legislation; and
 - (ii) any other waste that has any of the hazardous characteristics specified in Part 3 of Schedule 3

household waste means any waste collected from households; and includes any residue from the incineration of that waste

importation means the arrival in New Zealand in any manner, whether lawfully or unlawfully, from a point outside New Zealand, and **import** and **imported** have corresponding meanings

non-Rotterdam Party means a State or regional economic integration organization that is not a Rotterdam Party

OECD Decision—

- (a) means Decision C(2001)107/FINAL concerning the Control of Transboundary Movements of Wastes Destined for Recovery Operations, made on 14 June 2001 by the Council of the Organisation for Economic Co-operation and Development; and
- (b) includes the appendices to the decision; and
- (c) includes any amendments to, or substitutions of, those documents that are or will become binding on New Zealand

OECD member country means a Party to the Convention on the Organisation for Economic Co-operation and Development, done at Paris on 14 December 1960

Rotterdam chemical means a chemical to which the Rotterdam Convention applies and which is listed in Schedule 2

Rotterdam Convention means the Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, done at Rotterdam on 10 September 1998; and includes the Annexes to the Convention, and any amendments to, or substitutions of, those documents that are or will become binding on New Zealand

Rotterdam Party means a Party to the Rotterdam Convention as defined by Article 2 of that Convention

severely restricted chemical means a chemical—

- (a) within the meaning of that term as defined by Article 2 of the Rotterdam Convention; and
- (b) to which the Rotterdam Convention applies

Stockholm chemical means a chemical to which the Stockholm Convention applies and which is listed in Schedule 1

Stockholm Convention means the Convention on Persistent Organic Pollutants, done at Stockholm on 23 May 2001; and includes the Annexes to the Convention, and any amendments to, or substitutions of, those documents that are or will become binding on New Zealand

Stockholm Party means a Party to the Stockholm Convention as defined by Article 2 of that Convention

Waigani Convention means the Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region, done at Waigani on 16 September 1995; and includes the Annexes to the Convention, and any amendments to, or substitutions of, those documents that are or will become binding on New Zealand

Waigani Party means a Party to the Waigani Convention

waste means any substance or object that is—

- (a) intended to be disposed of by any of the methods specified in Part 4 of Schedule 3; or
- (b) required, by any law of New Zealand, to be disposed of by any of the methods specified in Part 4 of Schedule 3.

Clause 4 **Act**: inserted, on 1 July 2011, by section 54 of the Environmental Protection Authority Act 2011 (2011 No 14).

Clause 4 **hazardous waste**: replaced, on 16 August 2013, by clause 4(1) of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2013 (SR 2013/315).

Clause 4 **Minister**: revoked, on 1 July 2011, by section 54 of the Environmental Protection Authority Act 2011 (2011 No 14).

Clause 4 **non-Rotterdam Party**: inserted, on 18 December 2018, by clause 4 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2018 (LI 2018/257).

Clause 4 **OECD Decision**: inserted, on 16 August 2013, by clause 4(2) of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2013 (SR 2013/315).

Clause 4 **OECD member country**: inserted, on 16 August 2013, by clause 4(2) of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2013 (SR 2013/315).

Exportation of chemicals and wastes

5 Meaning of exportation

- (1) In this order, unless the context otherwise requires, **exportation** means any shipment in any craft for transportation to a point outside New Zealand, and **export** and **exported** have corresponding meanings.
- (2) However, the following chemicals are not exported to a State if they are transported to that State in transit only:
 - (a) a Rotterdam chemical:
 - (b) a banned chemical:
 - (c) a severely restricted chemical.

6 Exportation of certain chemicals and waste prohibited

- (1) The exportation of Stockholm chemicals, Rotterdam chemicals, banned chemicals, severely restricted chemicals, hazardous waste, and household waste is prohibited, except as provided in clauses 7 to 11.
- (2) However, it is outright prohibited to export hazardous waste or other waste to—
 - (a) a Basel Party that has informed the Secretariat of the Basel Convention that it has prohibited importation of that waste; or
 - (b) an OECD member country that has informed the OECD Secretariat that it has prohibited importation of that waste.

Clause 6: replaced, on 16 August 2013, by clause 5 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2013 (SR 2013/315).

7 When Stockholm chemical other than waste may be exported

- (1) A person may export a Stockholm chemical (other than waste) from New Zealand if the EPA grants the person a permit authorising the export of the chemical.
- (2) The EPA must grant a permit authorising the exportation of the Stockholm chemical if—
 - (a) the chemical is exported to—
 - (i) a State that is a Stockholm Party and that is permitted to use the chemical under Annex A or B of the Stockholm Convention; or
 - (ii) a State that is not a Stockholm Party and that has provided an annual certification to New Zealand; and
 - (b) the chemical is exported in accordance with New Zealand's obligations under the Stockholm Convention.
- (3) Despite subclause (2), the EPA may refuse to grant a permit if section 3BC of the Act applies.

Clause 7: substituted, on 1 July 2011, by section 54 of the Environmental Protection Authority Act 2011 (2011 No 14).

8 Exception for exportation of unintentional trace contaminants and for research

The prohibition in clause 6 does not apply to the exportation of quantities of a Stockholm chemical that—

- (a) are present as unintentional trace contaminants in products and articles; or
- (b) are to be used for laboratory-scale research or as a reference standard.

9 When Rotterdam chemical may be exported

- (1) A Rotterdam chemical may be exported to a Rotterdam Party that has given notification of a final or interim decision to consent to import the chemical, if the EPA grants a permit authorising its exportation.
- (2) The EPA must consent to the exportation of a chemical referred to in subclause (1) if—
 - (a) the exporter has complied with any conditions imposed by the importing party; and
 - (b) the chemical has been labelled with information that advises of the risks or hazards that the chemical poses to human health or the environment or states where information about those risks or hazards can be obtained; and
 - (c) the export is otherwise in conformity with New Zealand's obligations under the Rotterdam Convention.

- (3) A Rotterdam chemical may be exported to a Rotterdam Party that has not given notification of a final or interim decision concerning the importation of the chemical if the EPA grants a permit authorising the exportation.
- (4) The EPA must consent to the exportation of a chemical referred to in subclause (3) if—
- (a) any of the following applies:
 - (i) the chemical, at the time of importation, is registered as a chemical in the importing Rotterdam Party; or
 - (ii) evidence exists that it has previously been used in, or imported into, the importing Rotterdam Party and no regulatory action to prohibit its use has been taken; or
 - (iii) explicit consent to the import has been sought and received by the exporter through a designated national authority of the importing Rotterdam Party; and
 - (b) the chemical has been labelled with information that advises of the risks or hazards that the chemical poses to human health or the environment or states where information about those risks or hazards can be obtained; and
 - (c) the export is otherwise in conformity with New Zealand's obligations under the Rotterdam Convention.
- (5) Despite subclauses (2) and (4), the EPA may refuse to grant a permit if section 3BC of the Act applies.
- (6) A Rotterdam chemical may be exported to a non-Rotterdam Party.
- Clause 9(1): amended, on 1 July 2011, by section 54 of the Environmental Protection Authority Act 2011 (2011 No 14).
- Clause 9(2): amended, on 1 July 2011, by section 54 of the Environmental Protection Authority Act 2011 (2011 No 14).
- Clause 9(3): amended, on 1 July 2011, by section 54 of the Environmental Protection Authority Act 2011 (2011 No 14).
- Clause 9(4): amended, on 1 July 2011, by section 54 of the Environmental Protection Authority Act 2011 (2011 No 14).
- Clause 9(5): added, on 1 July 2011, by section 54 of the Environmental Protection Authority Act 2011 (2011 No 14).
- Clause 9(6): inserted, on 18 December 2018, by clause 5 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2018 (LI 2018/257).

10 When banned chemical or severely restricted chemical may be exported

- (1) A banned chemical or severely restricted chemical may be exported to a Rotterdam Party if the EPA grants a permit authorising the exportation.
- (2) The EPA must consent to the exportation of a chemical referred to in subclause (1) if—

- (a) an export notification for that chemical has been provided to, and acknowledged by, the importing Rotterdam Party in accordance with Article 12 of the Rotterdam Convention; and
 - (b) the exporter has provided all information necessary for New Zealand to comply with the information requirements for export notification under Article 12 and Annexes I and V of the Rotterdam Convention; and
 - (c) the chemical has been labelled with information that advises of the risks or hazards that the chemical poses to human health or the environment or states where information about those risks or hazards can be obtained; and
 - (d) the export is otherwise in conformity with New Zealand's obligations under the Rotterdam Convention.
- (3) Despite subclause (2), the EPA may refuse to grant a permit if section 3BC of the Act applies.

Clause 10(1): amended, on 1 July 2011, by section 54 of the Environmental Protection Authority Act 2011 (2011 No 14).

Clause 10(2): amended, on 1 July 2011, by section 54 of the Environmental Protection Authority Act 2011 (2011 No 14).

Clause 10(3): added, on 1 July 2011, by section 54 of the Environmental Protection Authority Act 2011 (2011 No 14).

11 When hazardous waste or household waste may be exported

- (1) A person may export hazardous waste or household waste (including waste that is or contains a Stockholm chemical) from New Zealand if the EPA grants the person a permit authorising the exportation of the waste.
- (2) The EPA must grant a permit—
- (a) for exportation to a Basel Party, other than exportation to which paragraph (b) applies, if the requirements of subclause (3) are met; or
 - (b) for exportation to an OECD member country of waste intended for diversion if the requirements of subclause (4) are met.
- (3) The requirements of this subclause are that—
- (a) the common requirements are met; and
 - (b) the importing State has not prohibited the importation of the waste as described in clause 6(2)(a); and
 - (c) the importing State has consented in writing to the specific importation in question; and
 - (d) the exportation of the waste is otherwise in conformity with New Zealand's obligations under the Basel Convention and, if relevant, the Wai-gani Convention.
- (4) The requirements of this subclause are that—
- (a) the common requirements are met; and

- (b) the importing State has not prohibited the importation of the waste as described in clause 6(2)(a) or (b); and
 - (c) the exportation of the waste is otherwise in conformity with New Zealand's obligations under the Basel Convention, the OECD Decision, and, if relevant, the Waigani Convention.
- (5) Despite subclause (2), the EPA may refuse to grant a permit if section 3BC of the Act applies.
- (6) In this clause,—
- common requirements** means that—
- (a) any of the following applies:
 - (i) New Zealand does not have the technical capacity and the necessary facilities, capacity, or suitable disposal sites to dispose of the waste in an environmentally sound and efficient manner:
 - (ii) the waste is required as a raw material for any recycling or recovery industry in the importing State:
 - (iii) the waste is exported in accordance with any criteria decided by the Basel Parties; and
 - (b) the waste can be disposed of or managed in an environmentally sound and efficient manner in the importing State; and
 - (c) for waste that is or contains a Stockholm chemical, the exportation is in accordance with Article 6(1)(d) of the Stockholm Convention

intended for diversion means that waste is intended to be, or required by any law of New Zealand to be, disposed of by any of the methods specified in clause 2 of Part 4 of Schedule 3.

Clause 11: replaced, on 16 August 2013, by clause 6 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2013 (SR 2013/315).

Importation of wastes

12 Importation of certain waste prohibited

The importation of hazardous waste and household waste is prohibited, except as provided in clause 13.

Clause 12: replaced, on 16 August 2013, by clause 7 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2013 (SR 2013/315).

13 When hazardous waste or household waste may be imported

- (1) A person may import hazardous waste or household waste if the EPA grants the person a permit authorising the importation of the waste.
- (2) The EPA must grant a permit—

- (a) for importation from a Basel Party or Waigani Party, other than importation to which paragraph (b) applies, if the requirements of subclause (3) are met; or
 - (b) for importation from an OECD member country of waste intended for diversion if the requirements of subclause (4) are met.
- (3) The requirements of this subclause are that—
- (a) the common requirements are met; and
 - (b) the importation of the waste is otherwise in conformity with New Zealand's obligations under the Basel Convention and, if relevant, the Waigani Convention.
- (4) The requirements of this subclause are that—
- (a) the common requirements are met; and
 - (b) the importation of the waste is otherwise in conformity with New Zealand's obligations under the Basel Convention, the OECD Decision, and, if relevant, the Waigani Convention.
- (5) Despite subclause (2), the EPA may refuse to grant a permit if section 3BC of the Act applies.
- (6) In this clause,—
- common requirements** means that—
- (a) any of the following applies:
 - (i) the exporting State does not have the technical capacity and the necessary facilities, capacity, or suitable disposal sites to dispose of the waste in an environmentally sound and efficient manner;
 - (ii) the waste is required as a raw material for any recycling or recovery industry in New Zealand;
 - (iii) the waste is imported in accordance with any criteria decided by the Basel Parties; and
 - (b) the waste can be disposed of or managed in an environmentally sound and efficient manner in New Zealand

intended for diversion means that waste is intended to be, or required by any law of New Zealand to be, disposed of by any of the methods specified in clause 2 of Part 4 of Schedule 3.

Clause 13: replaced, on 16 August 2013, by clause 8 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2013 (SR 2013/315).

Schedule 1 Stockholm chemicals

cl 4

Aldrin
Alpha hexachlorocyclohexane
Beta hexachlorocyclohexane
Chlordane
Chlordecone
DDT
Decabromodiphenyl ether
Dieldrin
Endrin
Heptachlor
Hexabromobiphenyl
Hexabromocyclododecane
Hexabromodiphenyl ether and heptabromodiphenyl ether
Hexachlorobenzene
Hexachlorobutadiene CAS No: 87-68-3
Lindane
Mirex
Pentachlorobenzene
Pentachlorophenol and its salts and esters
Perfluorooctane sulfonic acid (CAS No: 1763-23-1), its salts, and any derivatives of the formula $C_8F_{17}SO_2X$, where X = halide, amide, esters, and other derivatives including polymers
Polychlorinated biphenyls (PCB)
Polychlorinated dibenzo-p-dioxins (PCDD)
Polychlorinated dibenzofurans (PCDF)
Polychlorinated naphthalenes, including dichlorinated naphthalenes, trichlorinated naphthalenes, tetrachlorinated naphthalenes, pentachlorinated naphthalenes, hexachlorinated naphthalenes, heptachlorinated naphthalenes, and octachlorinated naphthalene
Short-chain chlorinated paraffins
Technical endosulfan and its related isomers
Tetrabromodiphenyl ether and pentabromodiphenyl ether
Toxaphene

Schedule 1: amended, on 18 December 2018, by clause 6(1) of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2018 (LI 2018/257).

Schedule 1: amended, on 18 December 2018, by clause 6(2) of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2018 (LI 2018/257).

Schedule 1: amended, on 15 December 2016, by clause 4 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2016 (LI 2016/300).

Schedule 1: amended, on 18 August 2011, by clause 4 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2011 (SR 2011/253).

Schedule 2 Rotterdam chemicals

cl 4

Schedule 2: replaced, on 15 December 2016, by clause 5 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2016 (LI 2016/300).

1,2-dibromoethane (EDB)
2,4,5-T and its salts and esters
Actinolite asbestos
Alachor
Aldicarb
Aldrin
Amosite asbestos
Anthophyllite asbestos
Azinphos-methyl
Binapacryl
Captafol
Carbofuran
Chlordane
Chlordimeform
Chlorobenzilate
Commercial octabromodiphenyl ether, including hexabromodiphenyl ether and heptabromodiphenyl ether
Commercial pentabromodiphenyl ether, including tetrabromodiphenyl ether and pentabromodiphenyl ether
Crocidolite asbestos
DDT
Dieldrin
Dinitro-ortho-cresol (DNOC) and its salts (including ammonium salt, potassium salt, and sodium salt)
Dinoseb and its salts and esters
Dustable powder formulations containing a combination of benomyl at or above 7%, carbofuran at or above 10%, and thiram at or above 15%
Endosulfan
Ethylene dichloride
Ethylene oxide
Fluoroacetamide
HCH (mixed isomers)
Heptachlor

Hexabromocyclododecane (HBCD)

Hexachlorobenzene

Lindane

Mercury compounds, including inorganic mercury compounds, alkyl mercury compounds, and alkyloxyalkyl and aryl mercury compounds

Methamidophos

Methyl-parathion (emulsifiable concentrates (EC) at or above 19.5% active ingredient and dusts at or above 1.5% active ingredient)

Monocrotophos

Parathion

Pentachlorophenol and its salts and esters

Perfluorooctane sulfonic acid, perfluorooctane sulfonates, perfluorooctane sulfonamides, and perfluorooctane sulfonyls, including—

- perfluorooctane sulfonic acid
- potassium perfluorooctane sulfonate
- lithium perfluorooctane sulfonate
- ammonium perfluorooctane sulfonate
- diethanolammonium perfluorooctane sulfonate
- tetraethylammonium perfluorooctane sulfonate
- didecyldimethylammonium perfluorooctane sulfonate
- N-ethylperfluorooctane sulfonamide
- N-methylperfluorooctane sulfonamide
- N-ethyl-N-(2-hydroxyethyl) perfluorooctane sulfonamide
- N-(2-hydroxyethyl)-Nmethylperfluorooctane sulfonamide
- perfluorooctane sulfonyl fluoride

Phorate

Phosphamidon (soluble liquid formulations of the substance that exceed 1000 g active ingredient/ℓ)

Polybrominated biphenyls (PBB)

Polychlorinated biphenyls (PCB)

Polychlorinated terphenyls (PCT)

Short-chain chlorinated paraffins

Tetraethyl lead

Tetramethyl lead

Toxaphene

Tremolite asbestos

Tributyltin compounds

Trichlorfon

Tris (2,3-dibromopropyl) phosphate

Schedule 2: amended, on 21 November 2019, by clause 4 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2019 (LI 2019/251).

Schedule 2: amended, on 18 December 2018, by clause 7 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2018 (LI 2018/257).

Schedule 3

Matters relating to hazardous waste and waste

cls 4, 11, 13

Schedule 3 heading: replaced, on 16 August 2013, by clause 9 of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2013 (SR 2013/315).

Part 1

Categories of waste

- 1 Clinical waste from medical care in hospitals, medical centres, or clinics.
- 2 Waste from the production or preparation of pharmaceutical products.
- 3 Waste pharmaceuticals, drugs, and medicines.
- 4 Waste from the production, formulation, or use of biocides or phytopharmaceuticals.
- 5 Waste from the manufacture, formulation, or use of wood-preserving chemicals.
- 6 Waste from the production, formulation, or use of organic solvents.
- 7 Waste from heat treatment or tempering operations and containing cyanides.
- 8 Waste mineral oils unfit for their originally intended use.
- 9 Waste mixtures of—
 - (a) oil and water:
 - (b) hydrocarbons and water.
- 10 Waste substances or articles containing, or contaminated with, 1 or more of the following substances:
 - (a) polychlorinated biphenyls (PCBs):
 - (b) polychlorinated terphenyls (PCTs):
 - (c) polybrominated biphenyls (PBBs).
- 11 Waste tarry residues arising from refining or distillation, or any pyrolytic treatment.
- 12 Waste from the production, formulation, or use of inks, dyes, pigments, paints, lacquers, or varnish.
- 13 Waste from the production, formulation, or use of resins, latex, plasticisers, or glues or other adhesives.

- 14 Waste chemical substances—
 - (a) that arise from research and development or teaching activities; and
 - (b) that are not identified or are new, or both; and
 - (c) whose effects on humans or the environment, or both, are not known.
- 15 Waste from the production, formulation, or use of photographic chemicals or photographic processing materials.
- 16 Waste resulting from the surface treatment of metals or plastics.
- 17 Waste arising from industrial waste disposal operations.

Part 2 Hazardous constituents

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

Phenols and phenol compounds (including chlorophenols)
Selenium and selenium compounds
Tellurium and tellurium compounds
Thallium and thallium compounds
Zinc compounds

Part 3 Hazardous characteristic

1 References to flammable

In this Part, **flammable** means inflammable.

2 Explosive characteristic

A waste has an explosive characteristic 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.

3 Liquid wastes that have flammable characteristic

A liquid waste has a flammable characteristic if that waste—

- (a) is in liquid foam, or is a liquid that contains solids in solution or suspension (including, for example, 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).

4 Solid wastes that have flammable characteristic

A solid waste has a flammable characteristic if that waste (not being a waste to which clause 2 applies), under conditions encountered in transport, is readily combustible, or may cause or contribute to fire through friction.

5 Characteristic of being liable to spontaneous combustion

A waste has a 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.

6 Characteristic of emitting flammable gases by interaction with water

A waste has the characteristic of emitting flammable gases 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.

7 Oxidising characteristic

A waste has an oxidising characteristic if that waste, while in itself not necessarily combustible, may, generally by yielding oxygen, cause, or contribute to, the combustion of other materials.

8 Characteristic of being organic peroxide

(1) A waste that falls into one of the categories of waste specified in Part 1 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 has the characteristic of being an organic peroxide if that waste is thermally unstable and may undergo exothermic self-accelerating decomposition.

9 Characteristic of being acutely poisonous

A waste has the characteristic of being acutely poisonous if that waste is, if it is swallowed or inhaled, or if it has been in contact with skin,—

- (a) liable to cause death or serious injury; or
- (b) liable to harm human health.

10 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
- (b) those micro-organisms or those toxins are known to cause, or are suspected of causing, disease in animals or humans.

11 Corrosive characteristics

A waste has a corrosive characteristic if that waste, by chemical action,—

- (a) causes severe damage when in contact with living tissue; or
- (b) in the case of leakage, materially damages or destroys its means of transport or other goods.

12 Characteristic that results in liberation of toxic gases on contact with air or water

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

13 Toxic characteristic (delayed or chronic)

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

14 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.

15 Other hazardous characteristics

A waste has other hazardous characteristics if it is capable by any means, after disposal by any of the methods specified in Part 4, of yielding another material (including, for example, leachate) that has any of the characteristics specified in clauses 2 to 14 of this Part.

Part 4**Methods of disposal of wastes**

- 1 Methods of disposal that do not lead to the possibility of resource recovery, recycling, reclamation, direct reuse, 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 that 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 seabed 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 that are discarded by means of any of the methods specified in any of paragraphs (a) to (j) or in paragraph (l):
 - (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) (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):
 - (n) repackaging before disposal by any of the methods specified in any of paragraphs (a) to (l):
 - (o) storage pending disposal by any of the methods specified in any of paragraphs (a) to (l).
- 2 Methods of disposal that may lead to resource recovery, recycling, reclamation, direct reuse, 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, are—
- (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):
 - (l) exchange of wastes for disposal by any of the methods specified in any of paragraphs (a) to (k):
 - (m) accumulation of material intended for disposal by any of the methods specified in any of paragraphs (a) to (l).

Diane Morcom,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 1 July 2004.

**Imports and Exports (Restrictions) Prohibition Order
(No 2) 2004 Amendment Order 2013**
(SR 2013/315)

Rt Hon Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 12th day of August 2013

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to sections 3(1) and 3A(1) of the Imports and Exports (Restrictions) Act 1988, Her Excellency the Administrator of the Government makes the following order,—

- (a) acting on the advice and with the consent of the Executive Council; and
- (b) in compliance with the requirements of those provisions.

Order

1 Title

This order is the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2013.

2 Commencement

This order comes into force on 16 August 2013.

10 Transitional provision

- (1) This clause relates to the exportation or importation of hazardous waste or household waste if, at the commencement of this order,—
 - (a) a person had already applied for a permit authorising the exportation or importation; but
 - (b) the EPA had not yet decided whether to grant the permit.
- (2) The principal order applies, as amended by this order, to the exportation or importation of that waste.

**Imports and Exports (Restrictions) Prohibition Order
(No 2) 2004**

Reprinted as at
21 November 2019

Michael Webster,
for Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 15 August 2013.

Reprints notes

1 *General*

This is a reprint of the Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 that incorporates all the amendments to that order as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2019 (LI 2019/251)

Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2018 (LI 2018/257)

Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2016 (LI 2016/300)

Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2013 (SR 2013/315)

Imports and Exports (Restrictions) Prohibition Order (No 2) 2004 Amendment Order 2011 (SR 2011/253)

Environmental Protection Authority Act 2011 (2011 No 14): section 54