



Hazardous Substances and New Organisms Amendment Act 2015 (Transitional Controls) Regulations 2017

Patsy Reddy, Governor-General

Order in Council

At Wellington this 20th day of November 2017

Present:

Her Excellency the Governor-General in Council

These regulations are made under clause 8 of Schedule 7 of the Hazardous Substances and New Organisms Act 1996 on the advice and with the consent of the Executive Council.

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Regulations

1 Title

These regulations are the Hazardous Substances and New Organisms Amendment Act 2015 (Transitional Controls) Regulations 2017.

2 Commencement

These regulations come into force on 1 December 2017.

3 Revocation

These regulations are revoked at the close of 30 November 2020.

4 Interpretation

In these regulations, **Act** means the Hazardous Substances and New Organisms Act 1996.

5 Transitional controls

- (1) This regulation applies to—
 - (a) every approval for a hazardous substance or group of hazardous substances given under Part 5 of the Act that is in force immediately before the commencement of these regulations; and
 - (b) every deemed approval, as defined in clause 1 of Schedule 7 of the Act.
- (2) Until it is reissued under clause 4(3) of Schedule 7 of the Act or revoked under section 67B of the Act, every approval to which this regulation applies is subject to the controls for the time being prescribed by the following provisions of the Hazardous Substances (Hazardous Property Controls) Notice 2017 (as far as they are applicable):
 - (a) clause 13 (certain substances restricted to workplaces only):
 - (b) clauses 15 to 25 (hazardous substances in place other than workplace):
 - (c) clauses 26 to 32 (storage of LPG, stationary container systems for domestic oil burning installations and internal combustion engines, and SCUBA cylinders):
 - (d) clause 34 (substances on board ships that are workplaces that are not subject to the Health and Safety at Work Act 2015):
 - (e) clauses 36 to 44 (site and storage controls for ecotoxic substances):
 - (f) clauses 47 and 48 (equipment and records for ecotoxic substances):
 - (g) clauses 59 to 66 (qualifications for application of ecotoxic substances).
- (3) The controls specified in subclause (2) must be treated as existing prescribed controls for the purposes of clauses 2 and 4 of Schedule 7 of the Act.
- (4) On being replaced by a control specified in subclause (2), the replaced control ceases to have effect as an existing prescribed control for the purposes of Schedule 7 of the Act.

Martin Bell,
for Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations come into force on 1 December 2017 and have effect for 3 years.

These regulations are made under the transitional regulation-making powers in clause 8 of Schedule 7 of the Hazardous Substances and New Organisms Act 1996 (the **HSNO Act**), as substituted by the Hazardous Substances and New Organisms Amendment Act 2015 (the **HSNO Amendment Act**). Schedule 7 contains transitional provisions relating to existing approvals and classifications under the HSNO Act and is fully in force on 1 December 2017. As a consequence of the operative provisions of the Health and Safety at Work Act 2015 (the **HSW Act**) and HSNO Amendment Act, the regulation of hazardous substances is primarily split between notices created under the HSNO Act (**EPA Notices**) and hazardous substances regulations created under the HSW Act (**HSW HS Regulations**).

The EPA Notices and HSW HS Regulations will come into force together on 1 December 2017 (along with the remainder of the HSNO Amendment Act). Some controls are moving over to the HSW HS Regulations, but they are not being reproduced in full and the gaps created will need to be filled under the HSNO Act to ensure that risks to the public and the environment are managed to the same level as before the split. The gaps are being filled by controls in a new EPA Hazardous Substances (Hazardous Property Controls) Notice (**HPC Notice**), but the HPC Notice will not apply to existing hazardous substance approvals until they have been reissued (which is planned to happen after 1 December 2017).

These regulations will require users of existing hazardous substance approvals to comply with the gap-filling provisions in the HPC Notice prior to the reissue of approvals. The gap-filling controls in the HPC Notice relate to ecotoxic substances and to the storage and use of hazardous substances in places to which the HSW Act does not apply.

The applicable provisions in the HPC Notice are as follows:

- clause 13, which provides that certain substances can be supplied only to a workplace or an authorised person:
- clauses 15 to 25, which prescribe controls on substances in places other than workplaces:
- clauses 26 to 32, which prescribe controls on the storage of LPG, the storage of stationary container systems for domestic oil burning installations and internal combustion engines, and the filling of SCUBA cylinders:
- clause 34, which provides that the HSW HS Regulations apply to substances on board ships that are workplaces that are not subject to the HSW Act:
- clauses 36 to 44, which prescribe site and storage controls for ecotoxic substances:

- clauses 47 and 48, which prescribe requirements that relate to equipment and data records for ecotoxic substances:
- clauses 59 to 66, which prescribe qualifications to be held by persons who apply ecotoxic substances.

Regulatory impact statement

The Ministry for the Environment produced a regulatory impact statement on 2 October 2017 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <http://www.mfe.govt.nz/node/23711>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 23 November 2017.

These regulations are administered by the Ministry for the Environment.