Version
as at 4 September 2026

Hazardous Substances and New Organisms Act 1996

Public Act	1996 No 30
Date of assent	10 June 1996
Commencement	see section 1(2)

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry for Cities, Environment, Regions, and Transport.

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Transitional, savings, and related provisions

An Act to restate and reform the law relating to the management of hazardous substances and new organisms

1 Short Title and commencement

(1) This Act may be cited as the Hazardous Substances and New Organisms Act 1996.

(2) This Act shall come into force on a date to be fixed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made fixing different dates for different provisions and for different purposes.

(3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)

Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 1(2): Parts 1 and 2, and sections 11, 14, 15, 16, 17, 18, 19, 145, 146, 147, 148, and Schedule 1 brought into force, on 8 August 1996, by clause 2 of the Hazardous Substances and New Organisms Act Commencement Order 1996 (SR 1996/217).

Section 1(2): sections 10, 12, 13, 20–24, 25, 26, 27, 34–45, 46, 47, 48, 49, 50, 51, 52–61, 62, 63–65, 67, 68–73, 82, 83–86, 97–103, 104, 105–108, 109(1)(b)–(f), (i)–(l), (2), 114, 115, 116, 117, 118, 119, 120, 123, 125(1)(d)–(g), (i), (2)–(7), Part 8, Part 9, 140(1)(a), (b), (d), (h), (k)–(m), (o), (s), 141, 142(1), 149, 150, 151–158, 160–162, Part 16, and Schedules 2, 3, 4, 5, 6 brought into force, on 29 July 1998, by clause 2 (and see clause 2 for application) of the Hazardous Substances and New Organisms Act (New Organisms) Commencement Order 1998 (SR 1998/220).

Section 1(2): section 152 brought into force, on 30 December 1999, by clause 2 (and see clause 2 for application) of the Hazardous Substances and New Organisms Act (Commencement of Section 152) Order 1999 (SR 1999/403).

Section 1(2): Hazardous Substances and New Organisms Act 1996 brought into force, on 2 July 2001, by clause 2 (and see clause 2 for application) of the Hazardous Substances and New Organisms Act Commencement Order (No 2) 2001 (SR 2001/171).

Section 1(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 1
Preliminary

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

advertisement means any publication to the community or to any section of the community of any words, whether written or printed, spoken, or in any electronic form, or of any pictorial representation or design or device, used to promote the sale of any hazardous substance; and **to advertise** has a corresponding meaning

aircraft has the same meaning as in section 5 of the Civil Aviation Act 2023

amenity values means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes

approved form means a form approved by the Authority under section 11(1)(fa)

Authority or **EPA** means the Environmental Protection Authority established by section 7 of the Environmental Protection Authority Act 2011

bioaccumulation means accumulation within the tissues of living organisms

building has the same meaning as in section 7 of the Building Act 2004

by-product means an incidental or secondary product made in the manufacture of another product

carrier, in relation to a craft, means the owner or charterer of the craft; and, where the owner or charterer is not in New Zealand, includes the agent in New Zealand of the owner or charterer or, if there is no such agent in New Zealand, the person in charge

classification control means a control imposed under this Act for any hazardous substance in any place that specifies any requirements for advertising, identification, labelling, packaging, or safety data sheets

code of practice means any document issued or approved in accordance with section 78

compound means any chemical combination of chemical elements

conditional release approval means an approval under section 38BA or 38C

conditionally released new organism means a new organism that is subject to a conditional release approval

containment means restricting an organism or substance to a secure location or facility to prevent escape; and includes, in respect of genetically modified organisms, field testing and large-scale fermentation

containment facility means,—

(a) in relation to new organisms (other than genetically modified organisms), a facility registered as a containment facility under the Biosecurity Act 1993:

(b) in relation to genetically modified organisms, a facility which complies with the controls imposed by an approval granted under any of sections 42, 42A, 42B, or 45

containment structure means a containment facility that is a vehicle, room, building, or other structure, set aside and equipped for the development of genetically modified organisms

content control means a control imposed under this Act that—

(a) specifies the allowable limits for the content of any—

  (i) substance contained in any substance or product; or

  (ii) element or compound that makes up any substance contained in any substance or product; or

(b) specifies the allowable limits for the properties of any substance or product; or

(c) prohibits the presence of any—

  (i) substance contained in any substance or product; or

  (ii) element or compound that makes up any substance contained in any substance or product

controller means the person for the time being in charge of a location or facility

controls means any obligations or restrictions imposed on any hazardous substance or new organism, or on any person in relation to any hazardous substance or new organism, by this or any other Act or any regulations, rules, EPA notices, codes, or other instruments or documents made in accordance with the provisions of this or any other Act for the purposes of controlling the adverse effects of that substance or organism on people or the environment

craft means any form of aircraft, ship, or other vehicle or vessel capable of being used to transport any substance to or from New Zealand from or to any country outside New Zealand

Crown entity—

(a) has the same meaning as in section 7(1) of the Crown Entities Act 2004; and

(b) includes an organisation named or described in Schedule 4, or a company named in Schedule 4A, of the Public Finance Act 1989

Customs officer means any person holding office as a Customs officer appointed under the Customs and Excise Act 2018

Customs place has the same meaning as in section 5(1) of the Customs and Excise Act 2018

department has the same meaning as in section 5 of the Public Service Act 2020

develop,—

(a) in relation to organisms other than incidentally imported new organisms,—

  (i) means—

    (A) genetic modification of an organism:

    (B) regeneration of a new organism from biological material of the organism that cannot, without human intervention, be used to reproduce the organism:

    (C) fermentation of a micro-organism that is a new organism; but

  (ii) does not include field testing; and

(b) in relation to incidentally imported new organisms,—

  (i) means—

    (A) the activities referred to in paragraph (a)(i); and

    (B) the deliberate isolation, aggregation, multiplication, or other use of the organism; but

  (ii) does not include field testing

disposal means,—

(a) in relation to a hazardous substance,—

(i) treating the substance in such a way that it is no longer a hazardous substance; or

(ii) discharging the substance into the environment as waste; or

(iii) exporting the substance as waste from New Zealand:

(b) in relation to a new organism,—

(i) rendering the organism biologically inactive in such a manner as to prevent the occurrence of any future biological activity; or

(ii) exporting the organism from New Zealand

distribution system has the same meaning as in section 2 of the Gas Act 1992

document has the same meaning as in section 4(1) of the Evidence Act 2006

ecotoxic means capable of causing ill health, injury, or death to any living organism

ecotoxic control means a control imposed under this Act for the purposes of controlling the ecotoxic effects of a hazardous substance

effect includes—

(a) any potential or probable effect; and

(b) any positive or adverse effect; and

(c) any temporary or permanent effect; and

(d) any past, present, or future effects; and

(e) any acute or chronic effect; and

(f) any cumulative effect which arises over time or in combination with other effects

enforcement officer means an enforcement officer appointed under section 98 or section 99(3)

environment includes—

(a) ecosystems and their constituent parts, including people and communities; and

(b) all natural and physical resources; and

(c) amenity values; and

(d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters

environmental medium,—

(a) in relation to class 6 substances, means—

(i) air, water, and soil; or

(ii) a surface that a hazardous substance may be deposited onto:

(b) in relation to class 9 substances, means water, soil, or sediment where these are in the natural environment, or a surface that a hazardous substance may be deposited onto

environmental user charge means an amount of money payable per unit mass of a hazardous substance

environmentally sound disposal, in relation to a substance that is a persistent organic pollutant, means disposal in accordance with directions given by the Authority by notice in the *Gazette*, being directions that are not inconsistent with Article 6 of the Stockholm Convention

EPA control—

(a) means any control imposed by the Authority under this Act for the purpose of controlling the adverse effects of hazardous substances on people or on the environment; and

(b) includes, but is not limited to, classification controls, content controls, disposal controls, and ecotoxic controls

EPA notice means a notice issued in the *Gazette* by the Authority under Part 6, or under any provision of this Act that applies section 76C, except a notice issued under section 76E

explosive means capable of sudden expansion owing to a release of internal energy; and includes the capability to generate—

(a) deflagration; or

(b) pyrotechnic effects,—

and **explosion** has a corresponding meaning

exportation has the same meaning as in section 5(1) of the Customs and Excise Act 2018; and **to export** has a corresponding meaning

exposure limit means an environmental exposure limit or a tolerable exposure limit (as these terms are defined in section 77B(6))

field test means, in relation to an organism, the carrying on of trials on the effects of the organism under conditions similar to those of the environment into which the organism is likely to be released, but from which the organism, or any heritable material arising from it, could be retrieved or destroyed at the end of the trials

firework means an object containing small quantities of hazardous substances with explosive properties enclosed in a case of paper or similar material of such a strength, construction, and character that the ignition or explosion of one such firework will not cause the explosion en masse of similar fireworks kept or carried with it, and whose sole or principal effect is not percussive or vertical or horizontal flight

gas appliance has the same meaning as in section 2 of the Gas Act 1992

gas installation has the same meaning as in section 2 of the Gas Act 1992

gases under pressure means—

(a) a compressed gas; or

(b) a liquefied gas; or

(c) a refrigerated liquefied gas; or

(d) a dissolved gas

genetic element, in relation to a new organism, means—

(a) heritable material; and

(b) any genes, nucleic acids, or other molecules from the organism that can, without human intervention, replicate in a biological system and transfer a character or trait to another organism or to subsequent generations of the organism

genetically modified organism means, unless expressly provided otherwise by regulations, any organism in which any of the genes or other genetic material—

(a) have been modified by *in vitro* techniques; or

(b) are inherited or otherwise derived, through any number of replications, from any genes or other genetic material which has been modified by *in vitro* techniques

hazard classification means a combination of the hazardous property of a substance and the level or type of hazard related to that property prescribed in accordance with section 74

hazardous substance means, unless expressly provided otherwise by regulations or an EPA notice, any substance—

(a) with 1 or more of the following intrinsic properties:

(i) explosiveness:

(ii) flammability:

(iii) a capacity to oxidise:

(iv) corrosiveness:

(v) toxicity (including chronic toxicity):

(vi) ecotoxicity, with or without bioaccumulation; or

(b) which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any 1 or more of the properties specified in paragraph (a)

heritable material, in relation to a new organism, means viable biological material, including gametes and spores, arising from the organism that can, without human intervention, regenerate the organism or reproduce a new generation of the same species of the organism

host organism means an organism that is the subject of a genetic modification procedure

human cells—

(a) means human cells, human cell lines, or human tissues that are being grown or maintained outside the human body; and

(b) includes human reproductive cells or human embryonic cells that are being grown or maintained outside the human body

identification means the provision of any information about a substance or organism which—

(a) clearly identifies the chemical or biological nature of the substance or organism:

(b) specifies the nature and degree or type of hazard intrinsic to the substance or organism:

(c) describes precautions to be taken by persons managing hazardous substances to avoid injury to people or environmental damage:

(d) directly or indirectly aids in managing any hazardous effect of a hazardous substance:

(e) identifies and specifies the means of contacting any person knowledgeable in the management of the substance

import, in relation to new organisms, has the same meaning as in section 2(1) of the Biosecurity Act 1993

importation, in relation to hazardous substances, has the same meaning as in section 5(1) of the Customs and Excise Act 2018; and **to import**, in relation to those substances, has a corresponding meaning

incidentally imported new organism means a new organism that is imported in or on goods, but is not—

(a) an essential or constituent part of those goods:

(b) imported in or on the goods with the intention of concealing the presence of the new organism:

(c) a genetically modified organism

innovative medicine application has the meaning given to it in section 23A of the Medicines Act 1981

innovative TNP application—

(a) has the meaning given to it in section 72(1) of the Agricultural Compounds and Veterinary Medicines Act 1997; and

(b) includes an innovative agricultural compound application (as defined in section 72 of that Act as in force immediately before the commencement of the Agricultural Compounds and Veterinary Medicines Amendment Act 2016)

inseparable organism means any organism which is unable to be separated from any other organism

international regulator means an overseas body recognised by a notice issued under section 76E

intrinsic values, in relation to ecosystems, means those aspects of ecosystems and their constituent parts which have value in their own right, including—

(a) their biological and genetic diversity; and

(b) the essential characteristics that determine an ecosystem's integrity, form, functioning, and resilience

laboratory means a vehicle, room, building, or any other structure set aside and equipped for scientific experiments or research, for teaching science, or for the development of chemical or medicinal products

life cycle, in relation to a substance, means the time for which the substance is in existence from (and including) its manufacture or importation to its disposal

light rail vehicle has the same meaning as in section 4(1) of the Railways Act 2005

local authority means a territorial authority or a regional council

manufacture, in relation to a hazardous substance, includes the mining or extraction of any hazardous substance

member means a member of the Authority

Minister means the Minister for the Environment

motor vehicle has the same meaning as in section 2(1) of the Land Transport Act 1998

natural and physical resources has the same meaning as in section 2(1) of the Resource Management Act 1991

new organism has the meaning given to it by section 2A

organism—

(a) does not include a human being:

(ab) includes a human cell:

(b) includes a micro-organism:

(c) includes a genetic structure, other than a human cell, that is capable of replicating itself, whether that structure comprises all or only part of an entity, and whether it comprises all or only part of the total genetic structure of an entity:

(d) includes an entity (other than a human being) declared to be an organism for the purposes of the Biosecurity Act 1993:

(e) includes a reproductive cell or developmental stage of an organism

persistent organic pollutant—

(a) means a substance listed in Schedule 2A; and

(b) includes a substance containing 1 or more of those substances; and

(ba) includes a manufactured article containing 1 or more of those substances; but

(c) does not include a substance occurring in quantities as unintentional trace contaminants in products and articles

person includes the Crown

premises includes a dwelling, building, aircraft, ship, carriage, vehicle, box, receptacle, and place

prescribed means prescribed by regulations made or an EPA notice issued under this Act

public health has the same meaning as in section 4 of the Healthy Futures (Pae Ora) Act 2022

public notice means—

(a) a notice published on an Internet site maintained by or on behalf of the Authority; or

(b) a notice published in 1 or more daily newspapers circulating in the main metropolitan areas, together with any other public notice (if any) that the Authority or Minister (as applicable) thinks fit

qualifying medicine means a medicine or new medicine (as defined in section 3 of the Medicines Act 1981) that—

(a) is or contains a new organism; and

(b) meets the criteria set out in section 38I(3)

qualifying organism means a new organism that is or is contained in a qualifying medicine or qualifying veterinary medicine

qualifying veterinary medicine means a veterinary medicine (as defined in section 2(1) of the Agricultural Compounds and Veterinary Medicines Act 1997) that—

(a) is or contains a new organism; and

(b) meets the criteria set out in section 38I(3)

rail vehicle has the same meaning as in section 4(1) of the Railways Act 2005

railway line has the same meaning as in section 4(1) of the Railways Act 2005

regional council means a regional council within the meaning of the Local Government Act 2002

regulations means regulations in force under this Act

related chemicals or substances means chemicals or substances with the same or very similar active ingredients

release, in relation to new organisms, means to allow the organism to move within New Zealand free of any restrictions other than those imposed in accordance with the Biosecurity Act 1993 or the Conservation Act 1987

research and development, in relation to a hazardous substance, means systematic investigation or experimentation activities that involve the hazardous substance

responsible chief executive means the chief executive of the Authority and the chief executive of the department for the time being responsible for the administration of the Medicines Act 1981 or the Agricultural Compounds and Veterinary Medicines Act 1997, as the case may be

risk species means any species, subspecies, infrasubspecies, variety, strain, or cultivar prescribed as a risk species under section 140

road has the same meaning as in section 2(1) of the Land Transport Act 1998

serious environmental damage means any environmental damage prescribed under section 140

ship has the same meaning as in section 2(1) of the Maritime Transport Act 1994

Stockholm Convention—

(a) means the Convention on Persistent Organic Pollutants done at Stockholm on 23 May 2001 and the Annexes to the Convention, a copy of the English text of which is set out in Schedule 1AA; and

(b) includes any amendments to, or substitutions of, the Convention or the Annexes that are, or will become, binding on New Zealand

substance means—

(a) any element, defined mixture of elements, compounds, or defined mixture of compounds, either naturally occurring or produced synthetically, or any mixtures thereof:

(b) any isotope, allotrope, isomer, congener, radical, or ion of an element or compound which has been declared by the Authority, by notice in the *Gazette*, to be a different substance from that element or compound:

(c) any mixtures or combinations of any of the above:

(d) any manufactured article containing, incorporating, or including any hazardous substance with explosive properties

taxonomic classification, in relation to an organism, means the genus, species, subspecies, infrasubspecies, variety, strain, cultivar, or other appropriate classification that the organism belongs to

territorial authority means a territorial authority within the meaning of the Local Government Act 2002

toxic means capable of causing ill health in, or injury to, human beings

transferable permit means any permit to import or manufacture a hazardous substance issued in accordance with a transferable permit scheme

transferable permit scheme means any scheme established in accordance with section 87

transhipment means the importation into New Zealand of a hazardous substance or new organism solely for the purpose of export within 20 working days to another destination outside New Zealand

Treaty of Waitangi (Te Tiriti o Waitangi) has the same meaning as the word Treaty as defined in section 2 of the Treaty of Waitangi Act 1975

weapons system means any ammunition, explosive, or propellant; and includes any platform designed to carry any combination thereof

working day means any day except—

(a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and

(ab) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and

(b) a day in the period commencing on 20 December in any year and ending with 15 January in the following year

workplace has the same meaning as in section 20 of the Health and Safety at Work Act 2015

WorkSafe means WorkSafe New Zealand established by section 5 of the WorkSafe New Zealand Act 2013.

(2) For the purposes of paragraph (a) of the definition of the term substance in section 2(1), the definition of any mixture of elements or mixture of compounds may include a range of percentages of the elements or compounds making up the substance.

Section 2(1) **aerodrome**: repealed, on 20 April 2010, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 2(1) **aircraft**: amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Section 2(1) **approved form**: inserted, on 31 December 2000, by section 3(1) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 2(1) **approved form**: amended, on 1 July 2011, by section 12 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

Section 2(1) **Authority** or **EPA**: substituted, on 1 July 2011, by section 4 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

Section 2(1) **building**: amended, on 31 March 2005, pursuant to section 415(1) of the Building Act 2004 (2004 No 72).

Section 2(1) **classification control**: inserted, on 1 December 2017, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **conditional release approval**: substituted, on 20 April 2010, by section 4(2) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 2(1) **conditionally released new organism**: inserted, on 30 October 2003, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 2(1) **container**: repealed, on 1 December 2017, by section 4(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **containment facility** paragraph (b): amended, on 30 October 2003, by section 4(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 2(1) **containment structure**: inserted, on 28 May 2002, by section 5 of the Hazardous Substances and New Organisms (Genetically Modified Organisms) Amendment Act 2002 (2002 No 13).

Section 2(1) **content control**: inserted, on 1 December 2017, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **controls**: amended, on 1 December 2017, by section 4(3) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **Crown entity**: inserted, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

Section 2(1) **Crown entity** paragraph (b): amended, on 18 July 2013, by section 57 of the Public Finance Amendment Act 2013 (2013 No 50).

Section 2(1) **Customs officer**: amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 2(1) **Customs officer**: amended, on 1 October 1996, pursuant to section 294(2) of the Customs and Excise Act 1996 (1996 No 27).

Section 2(1) **Customs place**: inserted, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 2(1) **department**: inserted, on 9 April 2008, by section 4(2) of the Hazardous Substances and New Organisms Amendment Act 2008 (2008 No 22).

Section 2(1) **department**: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 2(1) **develop**: substituted, on 9 April 2008, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2008 (2008 No 22).

Section 2(1) **document**: inserted, on 1 December 2017, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **ecotoxic control**: inserted, on 1 December 2017, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **environmental medium**: inserted, on 22 December 2005, by section 3(1) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 2(1) **environmentally sound disposal**: inserted, on 23 December 2004, by section 4 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 2(1) **EPA control**: inserted, on 1 December 2017, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **EPA notice**: replaced, on 1 November 2022, by section 12(1) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 2(1) **exportation**: amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 2(1) **exposure limit**: inserted, on 22 December 2005, by section 3(1) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 2(1) **exposure limit**: amended, on 1 December 2017, by section 4(4) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **field test**: amended, on 30 October 2003, by section 4(4) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 2(1) **gases under pressure**: inserted, on 1 December 2017, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **genetic element**: inserted, on 28 May 2002, by section 5 of the Hazardous Substances and New Organisms (Genetically Modified Organisms) Amendment Act 2002 (2002 No 13).

Section 2(1) **hazardous substance**: amended, on 1 December 2017, by section 4(5) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **heritable material**: inserted, on 28 May 2002, by section 5 of the Hazardous Substances and New Organisms (Genetically Modified Organisms) Amendment Act 2002 (2002 No 13).

Section 2(1) **host organism**: inserted, on 30 October 2003, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 2(1) **human cells**: inserted, on 30 October 2003, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 2(1) **importation**: amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 2(1) **incidentally imported new organism**: inserted, on 9 April 2008, by section 4(2) of the Hazardous Substances and New Organisms Amendment Act 2008 (2008 No 22).

Section 2(1) **innovative medicine application**: inserted, on 8 November 2016, by section 11 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2016 (2016 No 82).

Section 2(1) **innovative TNP application**: inserted, on 8 November 2016, by section 11 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2016 (2016 No 82).

Section 2(1) **international regulator**: inserted, on 1 November 2022, by section 12(2) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 2(1) **laboratory**: inserted, on 31 December 2000, by section 3(1) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 2(1) **landfill**: repealed, on 1 December 2017, by section 4(6) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **light rail vehicle**: inserted, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 2(1) **local authority**: inserted, on 22 December 2005, by section 3(1) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 2(1) **motor vehicle**: amended, on 1 March 1999, by section 215(1) of the Land Transport Act 1998 (1998 No 110).

Section 2(1) **natural and physical resources**: amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 2(1) **new organism**: substituted, on 7 May 1999, by section 2(1) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 2(1) **organism** paragraph (a): substituted, on 30 October 2003, by section 4(5) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 2(1) **organism** paragraph (ab): inserted, on 30 October 2003, by section 4(5) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 2(1) **organism** paragraph (c): amended, on 30 October 2003, by section 4(6) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 2(1) **persistent organic pollutant**: inserted, on 23 December 2004, by section 4 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 2(1) **persistent organic pollutant** paragraph (b): amended, on 5 September 2015, by section 4(7) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **persistent organic pollutant** paragraph (ba): inserted, on 5 September 2015, by section 4(8) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **place of work**: repealed, on 1 December 2017, by section 4(9) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **port of entry**: repealed, on 1 December 2017, by section 4(9) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **premises**: substituted, on 31 December 2000, by section 3(2) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 2(1) **prescribed**: inserted, on 30 October 2003, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 2(1) **prescribed**: amended, on 5 September 2015, by section 4(10) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **public health**: substituted, on 1 January 2001, by section 111(1) of the New Zealand Public Health and Disability Act 2000 (2000 No 91).

Section 2(1) **public health**: amended, on 10 July 2026, by section 41(1) of the Healthy Futures (Pae Ora) Amendment Act 2026 (2026 No 40).

Section 2(1) **public health**: amended, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Section 2(1) **public notice**: replaced, on 5 September 2015, by section 4(11) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **qualifying medicine**: inserted, on 30 October 2003, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 2(1) **qualifying organism**: inserted, on 30 October 2003, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 2(1) **qualifying veterinary medicine**: inserted, on 30 October 2003, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 2(1) **rail service vehicle** and **light rail vehicle**: repealed, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 2(1) **rail vehicle**: inserted, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 2(1) **railway line**: amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 2(1) **regional council**: inserted, on 22 December 2005, by section 3(1) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 2(1) **related chemicals or substances**: inserted, on 1 November 2022, by section 12(2) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 2(1) **research and development**: substituted, on 22 December 2005, by section 3(2) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 2(1) **responsible chief executive**: inserted, on 30 October 2003, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 2(1) **road**: amended, on 1 March 1999, by section 215(1) of the Land Transport Act 1998 (1998 No 110).

Section 2(1) **serious harm**: repealed, on 1 December 2017, by section 4(12) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **stationary container**: repealed, on 1 December 2017, by section 4(13) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **Stockholm Convention**: inserted, on 23 December 2004, by section 4 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 2(1) **taxonomic classification**: inserted, on 30 October 2003, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 2(1) **territorial authority**: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2(1) **test certificate**: repealed, on 1 December 2017, by section 4(14) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **tracking system**: repealed, on 1 December 2017, by section 4(15) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **working day** paragraph (a): replaced, on 12 April 2022, by wehenga 7 o Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/section 7 of the Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14).

Section 2(1) **working day** paragraph (ab): inserted, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

Section 2(1) **workplace**: inserted, on 1 December 2017, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 2(1) **WorkSafe**: inserted, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

2A Meaning of term new organism

(1) A **new organism** is—

(a) an organism belonging to a species that was not present in New Zealand immediately before 29 July 1998:

(b) an organism belonging to a species, subspecies, infrasubspecies, variety, strain, or cultivar prescribed as a risk species, where that organism was not present in New Zealand at the time of promulgation of the relevant regulation:

(c) an organism for which a containment approval has been given under this Act:

(ca) an organism for which a conditional release approval has been given:

(cb) a qualifying organism approved for release with controls:

(d) a genetically modified organism:

(e) an organism that belongs to a species, subspecies, infrasubspecies, variety, strain, or cultivar that has been eradicated from New Zealand.

(2) An organism is not a new organism if—

(a) the organism is not a genetically modified organism and—

(i) an approval is granted under section 35 or 38 to release an organism of the same taxonomic classification; or

(ii) the organism is a qualifying organism and an approval has been granted under section 38I to release an organism of the same taxonomic classification without controls; or

(iii) an organism of the same taxonomic classification has been prescribed as not a new organism; or

(b) the organism is a genetically modified organism and—

(i) an approval is granted under section 38 to release an organism of the same taxonomic classification with the same genetic modification; or

(ii) the organism is a qualifying organism and an approval has been granted under section 38I to release an organism of the same taxonomic classification with the same genetic modification without controls; or

(iii) an organism of the same taxonomic classification with the same genetic modification has been prescribed as not a new organism; or

(c) the new organism was deemed to be a new organism under section 255 and other organisms of the same taxonomic classification were lawfully present in New Zealand before the commencement of that section and in a place that was not registered as a circus or zoo under the Zoological Gardens Regulations 1977.

(2A) A new organism does not cease to be a new organism because—

(a) it is subject to a conditional release approval; or

(b) it is a qualifying organism approved for release with controls; or

(c) it is an incidentally imported new organism.

(3) Despite the provisions of this section, an organism present in New Zealand before 29 July 1998 in contravention of the Animals Act 1967 or the Plants Act 1970 is a new organism.

(4) Subsection (3) does not apply to the organism known as rabbit haemorrhagic disease virus, or rabbit calicivirus.

Section 2A: inserted, on 7 May 1999, by section 3 of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 2A(1)(ca): inserted, on 30 October 2003, by section 5(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 2A(1)(cb): inserted, on 30 October 2003, by section 5(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 2A(2): substituted, on 30 October 2003, by section 5(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 2A(2)(a)(i): amended, on 20 April 2010, by section 5 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 2A(2A): inserted, on 30 October 2003, by section 5(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 2A(2A)(b): amended, on 9 April 2008, by section 5(1) of the Hazardous Substances and New Organisms Amendment Act 2008 (2008 No 22).

Section 2A(2A)(c): added, on 9 April 2008, by section 5(2) of the Hazardous Substances and New Organisms Amendment Act 2008 (2008 No 22).

3 Act to bind the Crown

(1) Except as provided in subsections (2) to (8), this Act shall bind the Crown.

(2) Subject to subsections (3) to (8), this Act shall not apply to any hazardous substance controlled by the Minister of Defence.

(3) The Chief of Defence Force shall develop codes of practice for EPA controls for hazardous substances controlled by the Minister of Defence and contained in any weapons system.

(4) The codes of practice developed under subsection (3)—

(a) must—

(i) be based on the relevant EPA controls (including any group standard conditions) imposed by the Authority on hazardous substances that have been approved by the Authority (including a deemed approval under section 96E or section 160A) for any purpose under this Act; or

(ii) meet the relevant requirements prescribed by EPA notices issued in accordance with section 75; and

(b) may incorporate or adapt any relevant international code of practice.

(5) The Chief of Defence Force—

(a) must ensure that methods of controlling all hazardous substances not contained in any weapons system and controlled by the Minister of Defence—

(i) are based on the relevant EPA controls (including any group standard conditions) imposed by the Authority on hazardous substances that have been approved by the Authority (including a deemed approval under section 96E or section 160A) for any purpose under this Act; or

(ii) meet the relevant requirements prescribed by EPA notices issued in accordance with section 75; and

(b) may comply with the relevant requirements in paragraph (a) by following the relevant code of practice approved under section 79.

(6) The Secretary of Defence shall audit the EPA controls on hazardous substances under the control of the Minister of Defence in accordance with section 24(2)(e) of the Defence Act 1990, and report the results to the Minister and the Minister of Defence.

(7) Any person may report to the Authority a breach of the requirements required to be met by any regulations or EPA notices in relation to hazardous substances under the control of the Minister of Defence.

(8) Where an incident occurs which involves any breach of an EPA control relating to a hazardous substance under the control of the Minister of Defence and the incident is not being investigated under the Armed Forces Discipline Act 1971, the Authority may, after consultation with the Minister and the Minister of the Crown who is responsible for the Ministry of Justice, direct an inquiry to be held before a District Court Judge.

(9) To assist the Judge, the Authority may appoint 2 or more people with skills or knowledge relevant to the subject matter of the inquiry.

(10) The Judge may hold the inquiry at any times and places the Judge appoints, and shall report on the cause of the incident to the Authority.

(11) The Judge has all the powers of a Commission of Inquiry under the Commissions of Inquiry Act 1908; and subject to subsections (9) and (10), that Act shall apply accordingly.

Section 3(3): amended, on 1 December 2017, by section 5(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 3(4): substituted, on 22 December 2005, by section 4 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 3(4)(a)(i): amended, on 1 December 2017, by section 5(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 3(4)(a)(ii): amended, on 1 December 2017, by section 5(3) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 3(5): substituted, on 22 December 2005, by section 4 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 3(5)(a)(i): amended, on 1 December 2017, by section 5(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 3(5)(a)(ii): amended, on 1 December 2017, by section 5(3) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 3(6): amended, on 1 December 2017, by section 5(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 3(7): amended, on 1 December 2017, by section 5(4) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 3(8): amended, on 1 December 2017, by section 5(5) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 3(8): amended, on 1 October 2003, by section 12(2) of the State Sector Amendment Act 2003 (2003 No 41).

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 7 have effect according to their terms.

Section 3A: replaced, on 1 November 2022, by section 13 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Part 2
Purpose of Act

4 Purpose of Act

The purpose of this Act is to protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of hazardous substances and new organisms.

5 Principles relevant to purpose of Act

All persons exercising functions, powers, and duties under this Act shall, to achieve the purpose of this Act, recognise and provide for the following principles:

(a) the safeguarding of the life-supporting capacity of air, water, soil, and ecosystems:

(b) the maintenance and enhancement of the capacity of people and communities to provide for their own economic, social, and cultural well-being and for the reasonably foreseeable needs of future generations.

6 Matters relevant to purpose of Act

All persons exercising functions, powers, and duties under this Act shall, to achieve the purpose of this Act, take into account the following matters:

(a) the sustainability of all native and valued introduced flora and fauna:

(b) the intrinsic value of ecosystems:

(c) public health:

(d) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, valued flora and fauna, and other taonga:

(e) the economic and related benefits and costs of using a particular hazardous substance or new organism:

(f) New Zealand's international obligations.

Section 6(e): substituted, on 30 October 2003, by section 6 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

7 Precautionary approach

All persons exercising functions, powers, and duties under this Act including, but not limited to, functions, powers, and duties under sections 28A, 29, 32, 38, 45, and 48, shall take into account the need for caution in managing adverse effects where there is scientific and technical uncertainty about those effects.

Section 7: amended, on 31 December 2000, by section 4 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

8 Treaty of Waitangi

All persons exercising powers and functions under this Act shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

9 Methodology to be used

(1) The Governor-General may from time to time, by Order in Council, establish a methodology (which includes an assessment of monetary and non-monetary costs and benefits) for making decisions under Part 5; and the Authority shall consistently apply that methodology when making such decisions.

(2) Before making any recommendation for the purpose of making any Order in Council under subsection (1), the Minister shall request the Authority to—

(a) develop a proposed methodology; and

(b) establish a process that the Minister considers gives the public adequate time and opportunity to make submissions on the proposed methodology to the Authority; and

(c) advise the Minister of any submissions received, and any comments the Authority wishes to make on the submissions, or the proposed methodology,—

and the Minister shall have regard to those submissions and comments.

(3) A failure to comply with subsection (2) shall not affect the validity of any Order in Council made under subsection (1).

(4) Notwithstanding section 59, the Authority shall not proceed to determine any application made under Part 5 until an Order in Council has been made under subsection (1).

(5) No decision of the Authority under Part 5 shall be challenged on the adequacy or otherwise of the methodology developed and applied under subsection (1).

(6) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 9(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 3
Powers, functions, and duties

10 Powers, functions, and duties of Minister

(1) The Minister may—

(a) *[Repealed]*

(b) *[Repealed]*

(c) decide any application made under this Act in accordance with the provisions of sections 68 to 73 inclusive of this Act:

(d) carry out any powers, functions, and duties conferred on the Minister by or under this Act.

(2) Subsection (1)(c) and (d) apply despite section 113 of the Crown Entities Act 2004.

(3) This section does not limit section 27 of the Crown Entities Act 2004.

Section 10(1)(a): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 10(1)(b): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 10(1)(c): amended, on 7 May 1999, by section 15(a) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 10(2): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 10(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

11 Powers, functions, and duties of Authority

(1) The Authority may—

(a) advise the Minister on any matter relating to the purpose of this Act, including, but not limited to,—

(i) the extent to which persons are complying with the provisions of this Act:

(ii) inconsistencies or conflicts between any controls placed on hazardous substances and new organisms under this Act and any controls placed on any hazardous substance and new organisms under any other Act:

(iii) the consideration and investigation of the use of environmental user charges in accordance with section 96:

(b) monitor and review—

(i) the extent to which the Act reduces adverse effects on the environment or people from hazardous substances or new organisms:

(ii) the enforcement of this Act including, but not limited to, the exercise of any power under section 103 or 103A by any enforcement officer:

(ba) carry out its enforcement functions under this Act:

(bb) issue certificates in accordance with section 82 and revoke certificates in accordance with section 82C:

(c) promote awareness of the adverse effects of hazardous substances and new organisms on people or the environment and awareness of the prevention or safe management of those effects:

(d) contribute to and co-operate with international forums and carry out international requirements as directed by the Minister:

(e) enquire into any incident or emergency involving a hazardous substance or a new organism:

(f) keep such registers relating to hazardous substances and new organisms as may be required by this Act or as may be necessary to administer this Act:

(fa) approve forms for applications under Part 5:

(fb) give directions as to the disposal of persistent organic pollutants:

(fc) approve standards for containment facilities:

(g) carry out any powers, functions, and duties conferred on it by or under this Act.

(2) The Authority must, before exercising the function specified in subsection (1)(fc), consult the persons whom the Authority considers are representative of the classes of person who are likely to have an interest in the standards.

(2A) In carrying out its powers, functions, and duties conferred on it by or under this Act that relate to hazardous substances, the Authority must foster a co-operative and consultative relationship with WorkSafe.

(3) This section does not limit section 17 of the Crown Entities Act 2004.

Section 11(1)(b)(ii): amended, on 1 November 2022, by section 14 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 11(1)(ba): inserted, on 1 December 2017, by section 7(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 11(1)(bb): inserted, on 1 December 2017, by section 7(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 11(1)(fa): inserted, on 31 December 2000, by section 5 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 11(1)(fb): inserted, on 23 December 2004, by section 5 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 11(1)(fc): inserted, as section 11(1)(fb), on 30 October 2003, by section 7(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 11(1)(fc) paragraph number: substituted, on 20 September 2007, by section 4(1) of the Hazardous Substances and New Organisms Amendment Act 2007 (2007 No 61).

Section 11(1)(g): amended, on 1 July 2011, by section 5 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

Section 11(2): added, on 30 October 2003, by section 7(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 11(2): amended, on 20 April 2010, by section 6 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 11(2A): inserted, on 1 December 2017, by section 7(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 11(3): added, as section 11(2), on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 11(3) subsection number: substituted, on 20 September 2007, by section 4(2) of the Hazardous Substances and New Organisms Amendment Act 2007 (2007 No 61).

12 Powers, functions, and duties of enforcement officers

Any enforcement officer may, in relation to the powers, functions, and duties specified in the enforcement officer's warrant of appointment,—

(a) give advice and information on the provisions of this Act:

(b) promote and monitor compliance with the provisions of this Act:

(c) provide information to the Authority if requested to do so by the Authority:

(d) carry out any powers, functions, and duties conferred on enforcement officers by or under this Act.

13 General duty

(1) Every person who imports, possesses, or uses a hazardous substance or new organism shall ensure that—

(a) any adverse effect caused by an act or omission of that person in relation to that substance or organism on any other person or the environment is avoided, remedied, or mitigated; and

(b) no action or omission by that person will contravene any requirement or control on that substance or organism imposed by this Act.

(2) The duty imposed in accordance with subsection (1) is not of itself enforceable against any person, and no person is liable to any other person for a breach of that duty.

(3) Notwithstanding subsection (2), a compliance order may be served on any person requiring that person to cease or prohibiting that person from commencing anything done or to be done by or on behalf of that person that in the opinion of the enforcement officer relates to any hazardous substance or new organism and is or is likely to be dangerous to such an extent that it has or is likely to have an adverse effect on the health and safety of people or the environment.

Part 4
Administrative provisions

Part 4 heading: substituted, on 1 July 2011, by section 6 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

14 Establishment of Authority

[Repealed]

Section 14: repealed, on 1 July 2011, by section 7 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

15 Membership of Authority

[Repealed]

Section 15: repealed, on 1 July 2011, by section 7 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

16 Eligibility for appointment as member of Authority

[Repealed]

Section 16: repealed, on 1 July 2011, by section 7 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

17 Restriction on Ministerial direction

The Minister may not give a direction under section 103 of the Crown Entities Act 2004 that relates to the exercise of any power, duty, or function of the Authority under Part 5 or Part 6A of this Act.

Section 17: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 17: amended, on 1 July 2011, by section 12 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

Section 17: amended, on 22 December 2005, by section 5 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

18 EPA may appoint committees

(1) A committee must include at least 1 member of the EPA.

(2) A person must not be appointed as a member of a committee unless the Minister has approved the appointment.

(3) Clause 14 of Schedule 5 of the Crown Entities Act 2004 applies to the EPA subject to subsection (2).

Section 18: substituted, on 1 July 2011, by section 8 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

18A Committee may appoint and delegate functions to subcommittee

(1) A committee appointed by the EPA under clause 14 of Schedule 5 of the Crown Entities Act 2004 may appoint a subcommittee to hear and decide an application to which section 19(2)(b) applies.

(2) For the purpose of subsection (1), the committee may delegate a power delegated to the committee under section 19(2)(b) to the subcommittee.

(3) A subcommittee is a committee for the purposes of clause 15 of Schedule 5 of the Crown Entities Act 2004.

Section 18A: inserted, on 1 July 2011, by section 8 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

18B Composition of subcommittee

(1) The majority of members of a subcommittee appointed under section 18A must be members of the committee that appointed the subcommittee.

(2) The subcommittee need not include a member of the EPA.

Section 18B: inserted, on 1 July 2011, by section 8 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

18C Qualification for appointment to committee or subcommittee

A committee or subcommittee appointed for the purpose of section 19(2)(b) must consist of persons who collectively have particular knowledge of, and expertise in, the subject matter of the application before the committee.

Section 18C: inserted, on 1 July 2011, by section 8 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

19 Delegation by Authority

(1) The Authority may, in writing, delegate to any person, whether or not that person is a member of the Authority, any of the Authority's functions, powers, or duties under this Act, on such conditions as the Authority thinks fit, except—

(a) the fixing of charges under section 21; and

(ab) the issuing of an EPA notice; and

(ac) the issuing of a notice under section 76E; and

(b) any power that may be delegated under subsection (2); and

(c) this power of delegation.

(2) The Authority may delegate in writing, on such terms and conditions as the Authority thinks fit,—

(a) the power to conduct a rapid assessment under any of sections 35, 38BA, 42, 42A, 42B, or 42C to any person, whether or not that person is a member of the Authority:

(b) the power to hear and decide any other application made under Part 5 or Part 6A to any committee appointed for that purpose in accordance with the Crown Entities Act 2004:

(ba) the power to assess and approve an application under section 38I(1) for the release of a qualifying organism to the responsible chief executive:

(bb) the power to determine whether a medicine or veterinary medicine is a qualifying medicine or qualifying veterinary medicine to the responsible chief executive:

(bc) the power to review and amend controls under section 38L in relation to qualifying medicines and qualifying veterinary medicines to the responsible chief executive:

(bd) the power to impose controls under section 45(2) in relation to a genetically modified human cell to which section 55 of the Hazardous Substances and New Organisms Amendment Act 2003 applies:

(c) *[Repealed]*

(ca) the power to grant an extension of an exemption under section 25C(2) to—

(i) any employee of a person specified in section 97 with relevant experience; or

(ii) if there is no employee with relevant experience, any other person with relevant experience, whether or not that person is a member of the Authority:

(cb) the power to decide any application under section 28, if it is not publicly notified under section 53(2), to its chief executive:

(cc) the power to decide any application under section 63D, if it is not publicly notified under section 53(2) or required to be consulted on by section 53AA(4), to its chief executive:

(d) the power to conduct a rapid assessment under section 28A to its chief executive:

(e) the power to hear and decide any application made under section 31 to its chief executive:

(f) *[Repealed]*

(g) the power to appoint an enforcement officer under section 99(3)(a) to its chief executive:

(h) the power to decide any application for any permission under Part 6, or the revocation of any permission under that Part, to—

(i) any employee of the department for the time being responsible for the administration of the Biosecurity Act 1993, any Medical Officer of Health (as defined in section 2(1) of the Health Act 1956), or any employee of any person specified in section 97, or any enforcement officer, with relevant experience in the subject matter of the application or the permission or licence; or

(ii) if there is no employee or enforcement officer with the relevant experience, any other person with the relevant experience, whether or not that person is a member of the Authority:

(ha) the power to revoke a certificate under section 82C to its chief executive:

(i) *[Repealed]*

(3) Every decision made in accordance with a delegation under this section shall be treated in all respects as though it were a decision of the Authority.

(4) Every person purporting to act under a delegation under this section is presumed to be acting in accordance with its terms in the absence of evidence to the contrary.

(5) A delegation under this section shall be revocable at will, and no such delegation shall prevent the performance or exercise of any function, power, or duty by the Authority.

(5A) A delegate to whom any function or power is delegated under this section may delegate the function or power only—

(a) with the prior written consent of the Authority; and

(b) subject to the same restrictions, and with the same effect, as if the subdelegate were the delegate.

(5B) Despite subsection (5A), if any function or power under section 26 or 51 in relation to hazardous substances or under section 28A, 29, or 32 is delegated to the chief executive under this section, the delegate may delegate the function or power to any employee of the Authority with the prior written consent of the Authority.

(6) Every delegation under subsection (2) must be available for public inspection at the office of the Authority during ordinary office hours.

(7) Sections 73 to 76 of the Crown Entities Act 2004 do not apply to the Authority's functions, powers, or duties under this Act.

Section 19(1): amended, on 20 April 2010, by section 7(1) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 19(1)(ab): inserted, on 5 September 2015, by section 8(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 19(1)(ac): inserted, on 1 November 2022, by section 15(1) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 19(1)(b): substituted, on 20 April 2010, by section 7(2) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 19(2): amended, on 20 April 2010, by section 7(3) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 19(2)(a): amended, on 20 April 2010, by section 7(4) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 19(2)(a): amended, on 30 October 2003, by section 9(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 19(2)(b): amended, on 1 July 2011, by section 9(1) of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

Section 19(2)(b): amended, on 22 December 2005, by section 6(1) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 19(2)(ba): inserted, on 30 October 2003, by section 9(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 19(2)(bb): inserted, on 30 October 2003, by section 9(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 19(2)(bc): inserted, on 30 October 2003, by section 9(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 19(2)(bd): inserted, on 30 October 2003, by section 9(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 19(2)(c): repealed, on 1 July 2011, by section 12 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

Section 19(2)(ca): inserted, on 23 December 2004, by section 6 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 19(2)(cb): inserted, on 20 April 2010, by section 7(5) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 19(2)(cc): inserted, on 1 November 2022, by section 15(2) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 19(2)(d): added, on 31 December 2000, by section 6(1) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 19(2)(e): added, on 31 December 2000, by section 6(1) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 19(2)(f): repealed, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 19(2)(g): added, on 31 December 2000, by section 6(1) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 19(2)(h): added, on 24 March 2004, by section 4 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 19(2)(h): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 19(2)(h)(i): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 19(2)(ha): inserted, on 22 December 2005, by section 6(2) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 19(2)(ha): amended, on 5 September 2015, by section 8(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 19(2)(ha): amended, on 20 April 2010, by section 7(6) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 19(2)(i): repealed, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 19(3): amended, on 20 April 2010, by section 7(7) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 19(5A): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 19(5B): inserted, on 5 September 2015, by section 8(3) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 19(6): added, on 31 December 2000, by section 6(2) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 19(7): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 19(7): amended, on 1 July 2011, by section 9(2) of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

20 Obligation to prepare and maintain register

(1) The Authority must keep a register of all applications for approvals for hazardous substances and new organisms made to the Authority, including pending and withdrawn applications.

(2) The register shall specify—

(a) the name and address of the applicant:

(b) a sufficient description of the substance or organism to uniquely identify that substance or organism:

(c) the purpose of the application:

(ca) if applicable, the project concerned:

(d) whether the application was approved or declined:

(e) any controls attached to the approval by the Authority, including any associated permissions granted under section 95A:

(f) all the controls on a hazardous substance imposed under this Act.

(3) The register shall also record the details of any list of low-risk organisms issued by the Authority.

(3A) The register must also include reference to controls on a hazardous substance imposed under the Health and Safety at Work Act 2015.

(3B) The register may also include reference to controls on a hazardous substance imposed under any other Act.

(4) Any decision by the Authority to approve the importation for release or development of any organism as a low-risk organism (other than an organism which is listed as a low-risk organism), shall also be included in the register.

(5) Every person shall have the right to inspect the register during the ordinary office hours of the Authority.

(6) The Authority may withhold any information relating to transhipment applications that this section would otherwise require to be on the register if, in its opinion, the information could pose a risk to national safety and security.

Section 20(1): replaced, on 1 December 2017, by section 9(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 20(2)(ca): inserted, on 30 October 2003, by section 10 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 20(2)(e): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 20(2)(e): amended, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 20(2)(f): replaced, on 1 December 2017, by section 9(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 20(3A): inserted, on 1 December 2017, by section 9(3) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 20(3B): inserted, on 1 December 2017, by section 9(3) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 20(6): inserted, on 5 September 2015, by section 9(4) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

20A Register of exposure limits for substances with toxic or ecotoxic properties

(1) The Authority must keep and maintain a register of all exposure limits set under this Act for substances with toxic or ecotoxic properties.

(2) The register must specify—

(a) the type of exposure limit:

(b) the value of the exposure limit:

(c) the hazardous substance that the exposure limit will apply to:

(d) if the exposure limit applies to any element or compound making up the hazardous substance, the element or compound that the exposure limit will apply to.

(3) Every person has the right to inspect the register during the ordinary office hours of the Authority.

Section 20A: inserted, on 22 December 2005, by section 7 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

20B Publication of decisions

(1) If the Authority makes a decision under Part 5 or 6A in respect of any application (including a request under section 62), the Authority must—

(a) give its decision in writing, including reasons for the decision; and

(b) give a copy of the decision to the applicant and every person who made a submission; and

(c) give public notice of the decision as soon as practicable after the decision is made.

(2) The Authority may withhold any information relating to transhipment applications from a public notice under this section if, in its opinion, the information could pose a risk to national safety and security.

Section 20B: inserted, on 1 November 2022, by section 4 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

20C Reassessments work plan

(1) The Authority must, within 12 months of the commencement of this section, develop a work plan that sets the priorities for reassessments of hazardous substances that are requested by the chief executive of the Authority.

(2) When developing or updating a work plan, the Authority must take into account the criteria set out in section 62(2)(a) to (d).

(3) The work plan must include—

(a) a list of substances or groups of related chemicals or substances to be reassessed; and

(b) indicative time frames for the start of work by the Authority to reassess each of the listed substances or groups.

(4) The Authority must ensure that the work plan—

(a) gives highest priority to the following:

(i) hazardous substances that are prohibited from use under section 64:

(ii) hazardous substances that are subject to restriction under section 64A; and

(b) is made available, free of charge, on an Internet site maintained by or on behalf of the Authority; and

(c) is updated no less than once each calendar year.

Section 20C: inserted, on 1 November 2022, by section 4 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

21 Charges

(1) The Authority may from time to time, by notice,—

(a) fix the charges—

(i) on a scale of charges for exercising or performing any function, power, or duty under this Act; or

(ii) based on the time involved in exercising or performing any function, power, or duty under this Act—

so as to recover the actual and reasonable costs incurred in the exercise of that function, power, or duty; and

(b) specify the persons liable to pay the charge.

(2) Before any charges are fixed pursuant to subsection (1), the Authority shall—

(a) publicly notify the charges it proposes to fix and the persons who are liable to pay the charge; and

(b) allow such period of time as the Authority thinks fit for any person who may be liable to pay the proposed charge to comment in writing to the Authority on whether or not the proposed charges are reasonable; and

(c) consider any comments received in accordance with paragraph (b).

(3) *[Repealed]*

(4) Where the Authority fixes a scale of charges or a charge based on time, the Authority shall provide an estimate of the full charge payable by any person upon request by that person.

(5) Any charge payable under this section by any person in respect of the completed exercise or performance of any function, power, or duty by the Authority shall, until paid in full and remitted to the Authority, constitute a debt due to the Authority, and may be recovered in any court of competent jurisdiction.

(6) A notice under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publicly notify it (see section 2 definition of **public notice**)	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 21(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 21(3): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 21(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

22 Payments in advance

(1) The Authority may estimate the charge payable in respect of the exercise or performance of any function, power, or duty and require that estimated charge or part of that estimated charge to be paid in full before the Authority exercises or performs the function, power, or duty to which that charge relates.

(2) Where the actual and reasonable costs of exercising or performing any function, power, or duty,—

(a) exceed the amount paid in advance, the difference between the amount paid and the actual and reasonable costs shall be a debt and the provisions of section 21(5) shall apply:

(b) are less than the amount paid in advance, the Authority shall refund the difference between the amount paid and the actual and reasonable costs.

23 Fees for local authorities

Any local authority may prescribe fees by bylaw or resolution in accordance with section 150 of the Local Government Act 2002 for the exercise or performance by the local authority of any power, function, or duty under this Act.

Section 23: amended, on 22 December 2005, by section 8 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 23: amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

24 Power to request information

The Authority may from time to time request any person who in the Authority's opinion is able to give any information relating to any significant incident or emergency or likely significant incident or emergency involving a hazardous substance or new organism which is the subject of an inquiry by the Authority under section 11(1)(e), to furnish to the Authority any such information and to produce any documents or papers or things which in the Authority's opinion relate to any such matter and which may be in the possession or under the control of that person.

Section 24: amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Part 4A
Nga Kaihautu Tikanga Taiao

[Repealed]

Part 4A: repealed, on 1 July 2011, by section 10 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

24A Establishment of Nga Kaihautu Tikanga Taiao

[Repealed]

Section 24A: repealed, on 1 July 2011, by section 10 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

24B Function of Nga Kaihautu Tikanga Taiao

[Repealed]

Section 24B: repealed, on 1 July 2011, by section 10 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

24C Appointment and remuneration of members and chair

[Repealed]

Section 24C: repealed, on 1 July 2011, by section 10 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

24D Review of terms of reference

[Repealed]

Section 24D: repealed, on 1 July 2011, by section 10 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

Part 5
Assessment of hazardous substances and new organisms

Prohibition of import, etc, and types of approval

25AA This Part subject to Part 5A

[Repealed]

Section 25AA: repealed, on 30 October 2003, by section 13(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

25 Restriction of import, manufacture, development, field testing, or release

(1) No—

(a) hazardous substance shall be imported, or manufactured:

(b) new organism shall be imported, developed, field tested, or released—

otherwise than in accordance with an approval issued under this Act or in accordance with Parts 11 to 16.

(1A) Subsection (1)(b) does not apply to—

(a) the importation of an incidentally imported new organism, if it is imported in or on goods lawfully imported under the Biosecurity Act 1993; or

(b) the movement or use of those goods, together with any new organisms incidentally imported while they remain in or on those goods, after their importation.

(1B) The department responsible for administering the Biosecurity Act 1993 or its agents, and any other departments recognised by the responsible Minister under section 101(2) of that Act or their agents may, despite subsection (1)(b), isolate, aggregate, multiply, or use an incidentally imported new organism for the purpose of identifying, managing, or eradicating that organism.

(2) No approval shall be issued to import, develop, field test, or release any new organism specified in Schedule 2.

(3) If an organism has a conditional release approval, no further approvals are required for the conditional release of the organism on the same conditions.

(4) If an organism has an approval for importation into containment, no further approvals are required for the importation into containment of the organism.

(5) The restriction on the importation of a new organism does not apply to biological material of the organism that cannot, without human intervention, be used to reproduce the organism.

(6) No person may do any of the things specified in subsection (1)(a) or (b) in relation to any hazardous substance or new organism that is or has been the subject of an innovative TNP application or an innovative medicine application unless the person has applied for and been granted an approval to do that thing.

(7) Subsection (6) ceases to apply in respect of a hazardous substance or new organism on the date that section 55(3) or (4) ceases to apply to the Authority.

(8) *[Repealed]*

Section 25 heading: amended, on 9 April 2008, by section 6(1) of the Hazardous Substances and New Organisms Amendment Act 2008 (2008 No 22).

Section 25(1A): inserted, on 9 April 2008, by section 6(2) of the Hazardous Substances and New Organisms Amendment Act 2008 (2008 No 22).

Section 25(1B): inserted, on 9 April 2008, by section 6(2) of the Hazardous Substances and New Organisms Amendment Act 2008 (2008 No 22).

Section 25(2): amended, on 30 October 2003, by section 12(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 25(3): substituted, on 30 October 2003, by section 12(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 25(4): added, on 30 October 2003, by section 12(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 25(5): added, on 30 October 2003, by section 12(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 25(5): amended, on 9 April 2008, by section 6(3) of the Hazardous Substances and New Organisms Amendment Act 2008 (2008 No 22).

Section 25(6): added, on 30 October 2003, by section 12(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 25(6): amended, on 8 November 2016, by section 11 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2016 (2016 No 82).

Section 25(7): replaced, on 8 November 2016, by section 11 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2016 (2016 No 82).

Section 25(8): repealed, on 8 November 2016, by section 11 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2016 (2016 No 82).

25A Prohibition of import, manufacture, or use of persistent organic pollutants

(1) No persistent organic pollutant is to be imported or manufactured, and no approval is to be issued to import or manufacture a persistent organic pollutant, except as provided by—

(a) section 29B; or

(b) section 30(a); or

(c) section 30(ba), but only for research in a laboratory.

(2) A persistent organic pollutant that is manufactured in New Zealand must not be used in New Zealand except for a use specified in Schedule 2A for the persistent organic pollutant.

Section 25A: inserted, on 23 December 2004, by section 7 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

25B Prohibition on storage of persistent organic pollutants

(1) A persistent organic pollutant must not be stored in New Zealand.

(2) However, subsection (1) does not apply to—

(a) a persistent organic pollutant stored in accordance with conditions specified by the Authority by notice; or

(b) a persistent organic pollutant in respect of which storage is specified in Schedule 2A.

(3) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 25B: inserted, on 23 December 2004, by section 7 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 25B(2)(a): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 25B(2)(a): amended, on 22 December 2005, by section 9 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 25B(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

25C Continuation of certain exemptions under Toxic Substances Regulations 1983

(1) For the purposes of sections 25A and 25B and Schedule 2A, an exemption granted under regulation 49I or regulation 49J of the Toxic Substances Regulations 1983 that is in force immediately before the commencement of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 continues—

(a) on the same terms and conditions as in force at that time; and

(b) until the expiry of—

(i) the exemption; or

(ii) an extension of the exemption (being not later than the close of 2016).

(2) The Authority may grant an extension of an exemption for the purposes of subsection (1)(b)(ii).

(3) An extension under subsection (2) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	It is not required to be published	LA19 s 73(2)

Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 25C: inserted, on 23 December 2004, by section 7 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 25C(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

25D Use of persistent organic pollutants imported or manufactured before commencement of Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003

(1) This section applies to persistent organic pollutants imported or manufactured before the commencement of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003.

(2) No person may use a persistent organic pollutant for a use not specified in Schedule 2A if the Authority has issued a direction restricting the use of the persistent organic pollutant to the use in that schedule for the persistent organic pollutant.

(3) This section does not prevent approvals being granted under—

(a) section 30(a); and

(b) section 30(ba), but only for research in a laboratory.

(4) A direction under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 25D: inserted, on 23 December 2004, by section 7 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 25D(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 25D(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

26 Determination of new organism or hazardous substance

(1) The Authority may, on application by any person, determine whether or not any organism is a new organism.

(2) A determination under subsection (1) must be issued by notice in the *Gazette*.

(3) The Authority may, on application by any person, determine 1 or more of the following:

(a) whether or not any substance is a hazardous substance:

(b) a hazardous substance's classification:

(c) the approvals that apply or are required to be obtained.

(4) A determination under subsection (3) must be publicly notified.

(5) Before issuing a determination under this section, the Authority must have regard to—

(a) any information held by the Authority; and

(b) any information held by any department as defined in section 5 of the Public Service Act 2020 and any Crown entity; and

(c) any information provided by the applicant.

(6) The Authority may revoke or reissue a determination issued by it under this section if it receives further information.

Section 26: replaced, on 1 July 2016, by section 10 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 26(5)(b): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

27 Types of approval

In this Act, the term **approval** means any of the following:

(a) an approval to import or manufacture a hazardous substance for release:

(b) an approval to import for release or release from containment any new organism:

(ba) a conditional release approval to import for release or release from containment a new organism:

(bb) an approval to import for release or to release from containment a qualifying organism:

(c) an approval to import any new organism into containment, field test any new organism in containment, develop any new organism in containment:

(d) an approval to import any hazardous substance into containment or manufacture any hazardous substance in containment:

(e) an approval to import or manufacture any hazardous substance for release in an emergency, import any new organism for release in an emergency, or release any new organism from containment in an emergency:

(f) an approval to import an agricultural compound or medicine for release in a special emergency, release an agricultural compound or medicine

from containment in a special emergency, or use an agricultural compound or a medicine in a special emergency.

Section 27(ba): inserted, on 30 October 2003, by section 14(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 27(bb): inserted, on 30 October 2003, by section 14(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 27(f): added, on 30 October 2003, by section 14(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

27A Approvals at any taxonomic classification

(1) An approval referred to in section 27(b), (ba), (bb), or (c) may be granted for a new organism at any taxonomic classification that the Authority thinks fit.

(2) An approval that is granted for a new organism (that is not a genetically modified organism) in a taxonomic classification applies to all the organisms in the taxonomic classification.

(3) An approval that is granted for a genetically modified organism in a taxonomic classification applies only to organisms in the taxonomic classification with the same genetic modification as specified in the approval.

(4) Despite subsections (2) and (3), an approval may exclude any organism or groups of organisms from its scope.

Section 27A: inserted, on 30 October 2003, by section 15 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Approvals for hazardous substances

28 Application for approval to import or manufacture hazardous substances

(1) Unless an approval under section 28A or section 29 applies to the importation or manufacture of the substance, every person intending to—

(a) import; or

(b) manufacture—

a hazardous substance otherwise than in containment shall, before importation or manufacture, apply to the Authority for approval to import or manufacture that substance.

(2) Every application shall be in an approved form and shall include—

(a) the unequivocal identification of the substance and its properties; and

(b) information on all the possible adverse effects of the substance on the environment; and

(c) information on the intended uses of the substance throughout the life cycle of the substance; and

(d) information on methods for disposal of the substance; and

(e) information on all occasions where the substance has been considered by the government of any prescribed State or country or any prescribed organisation and the results of such consideration; and

(f) such other information as may be prescribed.

(3) The Authority may, by written notice given to the applicant, require the applicant to verify an application by statutory declaration.

(4) An applicant may, by written notice to the Authority, withdraw the application at any time.

Section 28(1): amended, on 2 July 2001, by section 8(1) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 28(2): amended, on 2 July 2001, by section 8(2) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

28A Rapid assessment for importation or manufacture of hazardous substances

(1) When the Authority receives an application under section 28 in respect of a hazardous substance, and the applicant has verified the information contained in the application by statutory declaration, the Authority may make a rapid assessment of the adverse effects of importing or manufacturing the substance.

(2) The Authority may approve a hazardous substance under this section if the Authority is satisfied that—

(a) a substance having a similar composition and similar hazardous properties has been approved; or

(ab) the use of the same substance or a substance having a similar composition and similar hazardous properties has been lawfully authorised by an international regulator; or

(b) the substance has 1 or more hazardous properties and each hazardous property has the least degree of hazard for that property; or

(c) the substance has been formulated so that 1 or more of its hazardous properties has a lesser degree of hazard than any substance that has been approved under this Act.

(3) Sections 77, 77A, and 77B apply to a hazardous substance approved by the Authority under this section as if the approval had been given under section 29.

(4) If the Authority does not approve a hazardous substance under this section, the application under section 28 may be determined under section 29.

(5) An applicant relying on subsection (2)(ab) must provide the Authority with evidence of their right to use the information relied on in the application.

(6) The Authority must not make a rapid assessment under subsection (2)(ab) if the Authority considers the application will have—

(a) significant cultural, economic, environmental, ethical, health, or international effects; or

(b) significant effects in an area in which the Authority lacks sufficient knowledge or expertise.

Section 28A: inserted, on 2 July 2001, by section 9 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 28A(2)(ab): inserted, on 1 November 2022, by section 5(1) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 28A(2)(b): amended, on 22 December 2005, by section 10(1) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 28A(2)(c): added, on 22 December 2005, by section 10(1) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 28A(3): amended, on 22 December 2005, by section 10(2) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 28A(5): inserted, on 1 November 2022, by section 5(2) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 28A(6): inserted, on 1 November 2022, by section 5(2) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

29 Determination of applications

(1) After considering any application for approval made under section 28 the Authority may, in its discretion,—

(a) approve the application if, after taking into account—

(i) any controls which may be imposed on the substance; and

(ii) all effects of the substance during the life cycle of that substance; and

(iii) the likely effects of the substance being unavailable,—

the positive effects of the substance outweigh the adverse effects; or

(b) decline the application if, after taking into account—

(i) any controls which may be imposed on the substance; and

(ii) all effects of the substance during the life cycle of that substance; and

(iii) the likely effects of the substance being unavailable,—

the adverse effects of the substance outweigh the positive effects; or

(c) decline the application if insufficient information is available to enable the Authority to determine the adverse effects of the substance.

(2) The provisions of sections 77, 77A, and 77B shall apply to any substance approved by the Authority under subsection (1).

(3) *[Repealed]*

Section 29(2): amended, on 22 December 2005, by section 11 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 29(3): repealed, on 1 November 2022, by section 16 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

29A Approvals for innovative agricultural compounds and medicines

[Repealed]

Section 29A: repealed, on 30 October 2003, by section 16(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

29B Applications relating to persistent organic pollutants

(1) An application to import a persistent organic pollutant may be granted,—

(a) if a use for the persistent organic pollutant is specified in Schedule 2A, only for that use; or

(b) if no use for the persistent organic pollutant is specified in Schedule 2A, only for the purpose of environmentally sound disposal.

(2) An application to manufacture a persistent organic pollutant may be granted if manufacture for the persistent organic pollutant is specified in Schedule 2A.

Section 29B: inserted, on 23 December 2004, by section 8 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Containment approvals for hazardous substances

30 Importing hazardous substances in containment

The Authority may approve the manufacture or importation of any hazardous substance in containment for any of the following purposes:

(a) small amounts of any hazardous substance for use as analytical standards where—

(i) approval to import or manufacture that substance has been declined; or

(ii) the substance is a persistent organic pollutant; or

(b) research on any hazardous substance to acquire information for use in assessing that substance in accordance with this Part; or

(ba) research and development on any hazardous substance; or

(c) use in an emergency under this or any other Act; or

(ca) formulating, relabelling, repackaging, or storing any hazardous substance for export to a destination outside New Zealand; or

(d) such other purposes as the Authority thinks fit.

Section 30(a): substituted, on 23 December 2004, by section 9 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 30(ba): inserted, on 2 July 2001, by section 11 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 30(ca): inserted, on 22 December 2005, by section 12 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

31 Application for hazardous substance containment approval

(1) Every person intending—

(a) to import into containment; or

(b) manufacture in containment—

any hazardous substance shall, before importation or manufacture, apply to the Authority for approval to import or manufacture that substance.

(2) Every application shall be in an approved form and shall include—

(a) identification of the substance for which approval is sought:

(b) the purpose for which approval is sought:

(c) the quantity of the substance proposed to be imported or manufactured:

(d) information on all occasions where the substance has been considered by the government of any prescribed State or country or any prescribed organisation and the results of such consideration:

(e) such other information as may be prescribed:

(f) all information known to the applicant relating to the effects of the substance throughout the life cycle of the substance:

(g) information on the proposed containment system.

(3) The Authority may, by written notice given to the applicant, require the applicant to verify any application by statutory declaration.

(4) An applicant may, by written notice to the Authority, withdraw the application at any time.

Section 31(2): amended, on 2 July 2001, by section 12 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

32 Decision on application

(1) After considering any application for approval made under section 31, the Authority may grant the application if the application is for one of the purposes specified in section 30 and the Authority is satisfied that the substance can be adequately contained.

(2) An approval under this section—

(a) must include controls that provide for each of the applicable matters specified in Schedule 3; and

(b) may include controls that provide for any other matters in order to give effect to the purpose of this Act.

(3) *[Repealed]*

Section 32(2): substituted, on 2 July 2001, by section 13 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 32(3): repealed, on 1 November 2022, by section 17 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

33 Exemptions from Act for small-scale research on hazardous substances

(1) Nothing in this Act applies to any small-scale use of hazardous substances in research and development or teaching if—

(a) the use occurs in a laboratory that meets the requirements prescribed under the Health and Safety at Work Act 2015; and

(b) the use does not create or involve a hazardous substance for which any application for approval has been declined under this Act; and

(ba) the use does not create or involve a persistent organic pollutant; and

(c) the importation, storage, and transportation of the hazardous substances each meets the prescribed requirements; and

(d) no such hazardous substance, nor any substance created from that use, is sold as a substance or in a product containing or derived from that substance, except as provided for in subsection (2).

(2) A hazardous substance, or any substance created from the use of that hazardous substance, referred to in subsection (1) may be sold as a substance or in a product containing or derived from that substance only if it is sold to—

(a) a laboratory in New Zealand that meets the requirements prescribed under the Health and Safety at Work Act 2015:

(b) a laboratory outside New Zealand, but only if—

(i) the hazardous substance or the substance has been sold to the laboratory outside New Zealand by a laboratory in New Zealand that meets the requirements prescribed under the Health and Safety at Work Act 2015; and

(ii) the laboratory in New Zealand holds evidence that the hazardous substance or the substance will be used by the laboratory outside New Zealand in research and development or training, and produces that evidence if requested to do so by the Authority.

Section 33: substituted, on 2 July 2001, by section 14 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 33(1)(a): amended, on 1 December 2017, by section 11 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 33(1)(ba): inserted, on 23 December 2004, by section 10 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 33(1)(d): amended, on 22 December 2005, by section 13(1) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 33(2): added, on 22 December 2005, by section 13(2) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 33(2)(a): amended, on 1 December 2017, by section 11 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 33(2)(b)(i): amended, on 1 December 2017, by section 11 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Assessment of new organisms for importation or release

34 Application for approval to import or release

(1) Every person intending—

(a) to import for release; or

(b) to release from containment—

any new organism shall, before importation or release, apply, under this section or under section 38A, to the Authority for approval to import or release.

(2) Every application under this section shall be in an approved form and shall include—

(a) any information prescribed; and

(b) information on all occasions where the organism has been considered by the government of any prescribed State or country or by any prescribed organisation and the results of such consideration; and

(c) the identification of the organism; and

(d) any likely inseparable organisms; and

(e) all the possible adverse effects of the organism on the environment; and

(f) the affinities of the organism with other organisms in New Zealand; and

(g) the potential use for the organism.

(3) The Authority may, by written notice given to the applicant, require the applicant to verify an application by statutory declaration.

(4) Any applicant may, by written notice to the Authority, withdraw the application at any time.

Section 34(1): amended, on 30 October 2003, by section 17(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 34(2): amended, on 30 October 2003, by section 17(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 34(2): amended, on 31 December 2000, by section 15 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

34A Applications for conditional release and for release in respect of same new organism

(1) The user of a conditional release approval may, at or after the time of applying for the approval, apply to the Authority for approval to release the new organism at the expiry of the conditional release approval.

(2) The application must be treated as if it were an application under section 34 to release the new organism from containment.

(3) If the application is granted, the approval takes effect immediately after the expiry of the conditional release approval.

Section 34A: inserted, on 30 October 2003, by section 18 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

35 Rapid assessment of risk for importation of new organisms

(1) Where the Authority receives an application under section 34 to import a new organism that is not a genetically modified organism for release, the Authority may make a rapid assessment of the adverse effects of importing that organism in accordance with subsections (2) and (3).

(2) If the Authority is satisfied that—

(a) the organism is not an unwanted organism as defined in the Biosecurity Act 1993; and

(b) it is highly improbable that the organism, after release,—

(i) could form self-sustaining populations anywhere in New Zealand, taking into account the ease of eradication; or

(ii) could displace or reduce a valued species; or

(iii) could cause deterioration of natural habitats; or

(iv) will be disease-causing or be a parasite, or be a vector or reservoir for human, plant, or animal disease; or

(v) will have any adverse effects on human health and safety or the environment,—

the Authority may approve the application without controls.

(3) If the Authority is satisfied that—

(a) the organism is an unwanted organism as defined in the Biosecurity Act 1993; or

(b) the organism is likely to fail the minimum standards specified in section 36—

the Authority may, subject to subsection (5), decline the application.

(4) If the Authority considers that the application should not be approved under subsection (2), then the application may be determined under section 38.

(5) Where any person appointed by the Authority to conduct a rapid assessment of risk declines an application under subsection (3), the applicant may request the Authority to continue the assessment and determine the application in accordance with section 38.

36 Minimum standards

The Authority shall decline the application, if the new organism is likely to—

(a) cause any significant displacement of any native species within its natural habitat; or

(b) cause any significant deterioration of natural habitats; or

(c) cause any significant adverse effects on human health and safety; or

(d) cause any significant adverse effect to New Zealand's inherent genetic diversity; or

(e) cause disease, be parasitic, or become a vector for human, animal, or plant disease, unless the purpose of that importation or release is to import or release an organism to cause disease, be a parasite, or a vector for disease.

37 Additional matters to be considered

The Authority, when making a decision under section 38, shall have regard to—

(a) the ability of the organism to establish an undesirable self-sustaining population; and

(b) the ease with which the organism could be eradicated if it established an undesirable self-sustaining population.

38 Determination of applications to import or release

(1) If an application made under section 34 is not granted under section 35 or any other section, the Authority may, in its discretion,—

(a) approve the application if—

(i) the organism meets the minimum standards set out in section 36; and

(ii) after taking into account all the effects of the organism, the effects of any inseparable organism and the matters in section 37, the positive effects of the organism outweigh the adverse effects of the organism and any inseparable organism; or

(b) decline the application if—

(i) the organism fails to meet the said minimum standards; or

(ii) after taking into account all the effects of the organism, the effects of any inseparable organism, and the matters in section 37, the adverse effects of the organism and any inseparable organism outweigh the positive effects; or

(iii) insufficient information is available to enable the Authority to assess the adverse effects of the organism.

(2) An approval under subsection (1) must be granted without controls.

(3) Any approval to import an organism for release or to release an organism from containment shall lapse 5 years after the date of the approval unless—

(a) the organism is sooner released; or

(b) the Authority, following an application by any person before the expiry of the time limit, extends the time limit for a further period of up to 5 years.

(3A) However, subsection (3) does not apply to an approval under this section that takes effect on the expiry of a conditional release approval.

(4) Every person who releases an organism in accordance with an approval given under this section within 5 years after the date of that approval shall, unless the requirement is waived by the Authority, notify the Authority within 1 month after the date of release.

(5) *[Repealed]*

Section 38(1): amended, on 30 October 2003, by section 19(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 38(2): substituted, on 30 October 2003, by section 19(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 38(3A): inserted, on 30 October 2003, by section 19(3) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 38(5): repealed, on 1 November 2022, by section 18 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Conditional release of new organisms

Heading: inserted, on 30 October 2003, by section 20 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

38A Application for approval to import or release new organism with controls

(1) A person may apply to the Authority for a conditional release approval to import for release or to release from containment a new organism with controls.

(2) An application for a conditional release approval must be in the approved form and must include—

(a) all prescribed information (if any); and

(b) information on all occasions where the organism has been considered by the government of any prescribed State or country or by any prescribed organisation and the results of the consideration; and

(c) the identification of the organism; and

(d) any likely inseparable organisms; and

(e) all the possible adverse effects of the organism on the environment; and

(f) the affinities of the organism with other organisms in New Zealand; and

(g) the proposed use for the organism; and

(h) the controls that the applicant proposes the organism would be subject to on its release.

(3) The Authority may, by written notice given to the applicant, require the applicant to verify an application by statutory declaration.

(4) Any applicant may, by written notice to the Authority, withdraw the application at any time.

Section 38A: inserted, on 30 October 2003, by section 20 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

38B Application under section 34 may be treated as application under section 38A

The Authority may, with the agreement of the applicant, treat an application made under section 34 as if it were an application made under section 38A, and sections 38A, 38BA, 38C, and 53(1)(ab) apply accordingly.

Section 38B: inserted, on 30 October 2003, by section 20 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 38B: amended, on 20 April 2010, by section 8 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

38BA Rapid assessment of risk for importation or release of new organisms with controls

(1) If the Authority receives an application under section 38A in respect of a new organism (other than a genetically modified organism), the Authority may make a rapid assessment of the adverse effects of importing the organism for release or releasing the organism from containment.

(2) The Authority may approve the application and grant a conditional release approval with controls if the Authority is satisfied that—

(a) the organism is not an unwanted organism as defined in the Biosecurity Act 1993; and

(b) after the controls are imposed, the organism will comply with section 35(2)(b).

Section 38BA: inserted, on 20 April 2010, by section 9 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

38C Determination of applications to import or release new organisms with controls

(1) If an application made under section 38A is not approved under section 38BA, the Authority may approve the application and grant a conditional release approval with controls if the Authority determines that,—

(a) after taking into account the matters in subsection (3), the new organism is likely to meet the minimum standards set out in section 36; and

(b) there is sufficient information available to assess the adverse effects of the organism; and

(c) after taking into account the matters in subsection (2), the positive effects of the organism outweigh the adverse effects of the organism and any inseparable organism.

(2) The matters to be taken into account under subsection (1)(c) are—

(a) all the effects of the organism and any inseparable organism; and

(b) the ability of the organism to establish a self-sustaining population; and

(c) the ease with which the organism could be recovered or eradicated if it established an undesirable self-sustaining population; and

(d) all the controls that will be imposed on the organism.

(3) The matters to be taken into account in subsection (1)(a) are—

(a) the controls that will be imposed on the approval; and

(b) whether the controls are likely to be effective in meeting the objective of the controls; and

(c) the ease with which the organism could be recovered or eradicated if it formed a self-sustaining population.

Section 38C: inserted, on 30 October 2003, by section 20 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 38C(1): amended, on 20 April 2010, by section 10 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

38D Controls

(1) The controls that the Authority may impose on a conditional release approval include—

(a) controlling the extent and purposes for which organisms could be used:

(b) requiring any monitoring, auditing, reporting, and record-keeping:

(c) imposing any obligation to comply with relevant codes of practice or standards (for example, to meet particular co-existence requirements):

(d) requiring contingency plans to be developed to manage potential incidents:

(e) limiting the dissemination or persistence of the organism or its genetic material in the environment:

(f) requiring the disposal of any organisms or genetic material:

(g) limiting the proximity of the organism to other organisms, including those that could be at risk from the conditionally released organism:

(h) setting requirements that must be met for any material derived from the organism:

(i) imposing obligations on the user of an approval, including levels of training or knowledge, limits on the numbers of users who may hold an approval, and the persons that they could deal with in respect of the organism:

(j) specifying the duration of the approval or of a control before requiring review by the Authority, and the nature of that review.

(2) Subsection (1) does not limit the type of controls the Authority may impose on a conditional release approval.

Section 38D: inserted, on 30 October 2003, by section 20 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

38E Duration of conditional release approval

(1) A conditional release approval that expressly states that it does not expire expires on the close of the date on which the last control to which the approval relates expires.

(2) In any other case, a conditional release approval expires on the earlier of the following:

(a) the date of expiry (if any) specified in the approval; or

(b) if no date of expiry is specified, 5 years after the date on which the approval is granted; or

(c) the close of the date on which the last control to which the approval relates expires.

Section 38E: inserted, on 30 October 2003, by section 20 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

38F Consequences of expiry of conditional release approval

On the expiry of a conditional release approval, the new organism concerned must be disposed of unless, before the expiry of the approval, another approval has been granted under this Act.

Section 38F: inserted, on 30 October 2003, by section 20 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

38G Review of controls on conditional release approval

(1) The Authority may, on its own initiative or on the application of any user of a conditional release approval or of any person specified in section 97 or section 97A, review the controls that it has imposed on the conditional release approval, but only if—

(a) the review is to amend a control so that it better meets the objective of the control; or

(b) the control included a review requirement specifying—

(i) the circumstances in which the control would be reviewed; and

(ii) the potential consequences of the review.

(2) The Authority—

(a) may carry out the review without publicly notifying the review in accordance with section 53; but

(b) if it does so, must—

(i) consult, and consider the views of, the Department of Conservation and any other government agency (as defined in section 49A) that the Authority considers is likely to have an interest in the review; and

(ii) publicly notify the results of the review.

(3) This section does not limit section 67A.

Section 38G: inserted, on 30 October 2003, by section 20 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

38H Restriction on release of new organism subject to conditional release approval

A person who did not obtain a conditional release approval for a new organism that is subject to a conditional release approval must not release the new organism in accordance with the approval unless, before the release, the person has given notice in writing to the Authority of the proposed release.

Section 38H: inserted, on 30 October 2003, by section 20 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Release of qualifying organisms

Heading: inserted, on 30 October 2003, by section 20 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

38I Assessment of applications for release of qualifying organisms

(1) If the Authority receives an application under section 34 that relates to a qualifying organism, the Authority may—

(a) make a rapid assessment of the adverse effects of importing for release or releasing from containment the qualifying organism; and

(b) approve the importation for release or the release from containment of the qualifying organism with or without controls.

(2) If the Authority does not approve an application under this section, the Authority must assess and determine the application under section 38.

(3) The Authority or the responsible chief executive, as the case may be, may determine that a qualifying organism is or is contained in a qualifying medicine or a qualifying veterinary medicine only if satisfied that, taking into account all the controls that will be imposed (if any), it is highly improbable that—

(a) the dose and routes of administration of the medicine or veterinary medicine would have significant adverse effects on—

(i) the health of the public; or

(ii) any valued species; and

(b) the qualifying organism could form an undesirable self-sustaining population and would have significant adverse effects on—

(i) the health and safety of the public; or

(ii) any valued species; or

(iii) natural habitats; or

(iv) the environment.

(4) In determining under subsection (3) whether a qualifying organism is or is contained in a qualifying medicine or a qualifying veterinary medicine, the following effects (if any) are not to be taken into account:

(a) any effect of the medicine or qualifying organism on the person who is being treated with the medicine:

(b) any effect of the veterinary medicine or qualifying organism on the animal that is being treated with the veterinary medicine.

(5) An approval granted under this section is not an approval—

(a) to use a qualifying medicine until the medicine has been lawfully supplied for use under the Medicines Act 1981; or

(b) to use a qualifying veterinary medicine until the veterinary medicine has been approved for use under the Agricultural Compounds and Veterinary Medicines Act 1997.

Section 38I: inserted, on 30 October 2003, by section 20 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

38J Procedure for assessing and approving application by responsible chief executive

If the Authority has delegated to the responsible chief executive its power to assess and approve an application under section 38 for the release of a qualifying organism, the responsible chief executive must—

(a) be paid the fee set by the Authority for the assessment and approval of the application; and

(b) determine whether the medicine is a qualifying medicine or the veterinary medicine is a qualifying veterinary medicine, as the case may be; and

(c) if the responsible chief executive is satisfied that the medicine is a qualifying medicine or the veterinary medicine is a qualifying veterinary medicine, the responsible chief executive may, with or without controls, approve the release of the qualifying organism.

Section 38J: inserted, on 30 October 2003, by section 20 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

38K Controls

(1) The type of controls that may be imposed on the importation for release or release from containment of a qualifying organism include—

(a) controls for the distribution of the qualifying medicine or qualifying veterinary medicine:

(b) controls providing for the methods of administering the qualifying medicine or qualifying veterinary medicine:

(c) controls concerning the persons who may administer the qualifying medicine or qualifying veterinary medicine:

(d) controls concerning the persons to whom the qualifying medicine may be administered:

(e) controls concerning the animals to which the qualifying veterinary medicine may be administered.

(2) Subsection (1) does not limit the type of controls that may be imposed on the importation for release or release from containment of a qualifying organism.

Section 38K: inserted, on 30 October 2003, by section 20 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

38L Review of controls for qualifying organisms

(1) The Authority may, on its own initiative or on the application of the holder of an approval under section 38I or of any person specified in section 97 or section 97A, review any controls that it has imposed on the approval, but only if—

(a) the review is to amend a control so that it better meets the objective of the control; or

(b) the control included a review requirement specifying—

(i) the circumstances in which the control would be reviewed; and

(ii) the potential consequences of the review.

(2) The Authority—

(a) may carry out the review without publicly notifying the review in accordance with section 53; but

(b) if it does so, must—

(i) consult, and consider the views of, any government agency (as defined in section 49A) that the Authority considers is likely to have an interest in the review; and

(ii) publicly notify the results of the review.

(3) This section does not limit section 67A.

Section 38L: inserted, on 30 October 2003, by section 20 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Containment approval for new organisms

39 Importation or development of new organisms in containment

(1) The Authority may approve the importation, development, or field testing of any new organism into containment for the following purposes:

(a) the development of any new organism:

(b) field testing any new organism:

(c) maintaining a new organism for use in an emergency (as defined in section 46):

(d) the conservation of any genetic material:

(e) the public display of any organism including, but not limited to, display in a circus or zoological garden:

(f) maintaining a new organism in containment to produce antigens, biopesticides, biopharmaceuticals, enzymes, hormones, or vaccines for release:

(g) maintaining new organisms in containment for diagnostic purposes:

(h) such other purposes as the Authority thinks fit.

(2) A decision by the Authority under section 38 or section 38C or section 38I to decline an application does not prevent the Authority from granting an approval to import a new organism into containment, develop a new organism in containment, or field test a new organism in containment for 1 or more of the purposes specified in subsection (1).

(3) If an application has been made to the Authority for a conditional release approval, any person may apply to the Authority for approval to put the organism into containment and the application—

(a) must be treated in all respects as an application to import a new organism into containment; and

(b) may be granted only for 1 or more of the purposes specified in subsection (1).

(4) If an application has been made to the Authority for an approval under section 38I, any person may apply to the Authority for approval to put the qualifying organism into containment, and the application—

(a) must be treated in all respects as an application to import a new organism into containment; and

(b) may be granted only for 1 or more of the purposes specified in subsection (1).

Section 39(1)(a): amended, on 30 October 2003, by section 21(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 39(2): substituted, on 30 October 2003, by section 21(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 39(3): added, on 30 October 2003, by section 21(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 39(4): added, on 30 October 2003, by section 21(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

40 Application for containment approval for new organisms

(1) Every person intending to import any new organism into containment, or develop or field test any new organism in containment, must apply to the Authority for approval to do so before importing, developing, or field testing the organism.

(2) Every application shall be in an approved form and shall include any information prescribed, information on all occasions where the organism has been

considered by the government of any prescribed State or country, or by any prescribed organisation, and the results of such consideration, information about the containment system for the organism, and,—

(a) for the development of a genetically modified organism,—

(i) the identification of the organism; and

(ii) the description of the project and the experimental procedures to be used; and

(iii) the details of the biological material to be used; and

(iv) the expression of foreign nucleic acid material; and

(v) all the possible adverse effects of the organism on the environment:

(b) for field testing of a genetically modified organism,—

(i) the identification of the organism; and

(ii) the purposes of the field testing; and

(iii) the genetic modifications of the organism to be tested; and

(iv) the nature and method of field trials and the experimental procedures to be used; and

(v) all the possible adverse effects of the organism on the environment.

(3) The Authority may, by written notice given to the applicant, require the applicant to verify an application by statutory declaration.

(4) An applicant may, by written notice to the Authority, withdraw the application at any time.

Section 40(1): substituted, on 20 April 2010, by section 11 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 40(2): amended, on 31 December 2000, by section 16 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 40(2)(a)(iv): amended, on 7 May 1999, by section 4 of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 40(2)(b): amended, on 30 October 2003, by section 22 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 40(2)(b)(ii): amended, on 30 October 2003, by section 22 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

41 Assessment of adverse effects of developing genetically modified organisms

(1) The Governor-General may, from time to time, by Order in Council, make regulations—

(a) specifying the procedures and methods for assessing the probability that an adverse effect will occur from genetic modification of an organism:

(b) specifying the probability that adverse effects will occur from specified development procedures:

(c) specifying the circumstances in which genetic modification of an organism is a low risk genetic modification.

(2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 41(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

42 Rapid assessment of adverse effects for development of genetically modified organisms

(1) Where the Authority receives an application under section 40 to develop a genetically modified organism in containment, the Authority may make a rapid assessment of the adverse effects of developing that organism.

(2) If the Authority is satisfied that any development meets the criteria for a low-risk genetic modification specified in regulations made under section 41, the Authority may approve the application and impose such controls providing for each of the matters specified in Schedule 3 as the Authority thinks fit.

42A Rapid assessment of projects for low-risk genetic modification

(1) An application made under section 40 to develop a new organism in containment may, instead of specifying the information required by or under section 40(2), describe—

(a) a project for the development of genetically modified organisms; and

(b) the identity of the host organisms; and

(c) the nature and range of the proposed genetic modifications.

(2) After the Authority receives an application under section 40 that complies with subsection (1), the Authority may make a rapid assessment of the adverse effects of carrying out the project if it is satisfied that—

(a) any host organism specified for the project meets the criteria for host organisms prescribed in regulations made under section 41; and

(b) any genetic modification specified for the project meets the criteria for genetic modification procedures prescribed in regulations made under section 41.

(3) If the Authority has completed a rapid assessment under subsection (2), the Authority may—

(a) approve the application; and

(b) impose controls providing for each of the matters specified in Schedule 3 as the Authority thinks fit; and

(c) direct the applicant to provide progress reports on the development at the times specified or required by the Authority.

Section 42A: inserted, on 30 October 2003, by section 23 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

42B Rapid assessment of adverse effects for importation of genetically modified organisms into containment

(1) After the Authority receives an application under section 40 to import a genetically modified organism into containment, the Authority may make a rapid assessment of the adverse effects of importing the organism.

(2) If the Authority is satisfied that the importation meets the criteria for a low-risk genetic modification specified in regulations made under section 41, the Authority may approve the application and impose controls providing for each of the matters specified in Schedule 3 as the Authority thinks fit.

(3) Section 25(4) does not apply if an application is approved under this section by a person acting under delegated authority from the Authority under section 19(2)(a).

Section 42B: inserted, on 30 October 2003, by section 23 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

42C Rapid assessment of adverse effects for development in containment, etc, of certain new organisms

(1) If the Authority receives an application under section 40 in respect of a new organism (other than a genetically modified organism), the Authority may make a rapid assessment of the adverse effects of importing the organism into containment, or of developing or field testing the organism in containment.

(2) If the Authority is satisfied that the importation, development, or field testing is low-risk, in accordance with regulations made under subsection (3), the Authority may approve the application and impose controls providing for each of the matters specified in Part 2 of Schedule 3 as the Authority thinks fit.

(3) The Governor-General may, by Order in Council, make regulations specifying the circumstances in which there is a low risk of adverse effects from—

(a) importing a new organism (other than a genetically modified organism) into containment; or

(b) developing or field testing a new organism (other than a genetically modified organism) in containment.

(4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 42C: inserted, on 20 April 2010, by section 12 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 42C(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

43 Additional matters to be considered when application made for developing new organisms in containment

The Authority, when making a decision under section 45, must have regard to,—

(a) in the case of an application made under section 40 to genetically modify an organism in containment, the matters specified in regulations made under section 41; and

(b) in the case of all applications made under section 40 to develop a new organism in containment, the matters specified in section 37.

Section 43: substituted, on 30 October 2003, by section 24 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 43(a): amended, on 1 July 2011, by section 12 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

Section 43(b): amended, on 1 July 2011, by section 12 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

44 Additional matters to be considered on applications for importing and field testing of organisms

The Authority, when making a decision under section 45, on an application made under section 40 to import a new organism into, or field test a new organism in, containment, must have regard to—

(a) the matters in section 37; and

(b) the ability of the organism to escape from containment.

Section 44: amended, on 1 July 2011, by section 12 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

44A Additional matters to be considered for certain developments and field tests

(1) This section applies to an application—

(a) to develop a new organism in containment that is a genetically modified organism, to the extent that the development does not take place in a containment structure:

(b) to field test a new organism in containment if the new organism is a genetically modified organism.

(2) In deciding whether to approve or decline an application, the Authority must take into account—

(a) any adverse effects of developing or field testing the organism on—

(i) human health and safety; and

(ii) the environment, in particular ecosystems and their constituent parts; and

(b) any alternative method of achieving the research objective that has fewer adverse effects on the matters referred to in paragraph (a) than the development or field test; and

(c) any effects resulting from the transfer of any genetic elements to other organisms in or around the site of the development or field test.

(3) The matters referred to in subsection (2) are in addition to the matters referred to in sections 44 and 45.

(4) *[Repealed]*

Section 44A: inserted, on 28 May 2002, by section 7(1) of the Hazardous Substances and New Organisms (Genetically Modified Organisms) Amendment Act 2002 (2002 No 13).

Section 44A(4): repealed, on 30 October 2003, by section 25 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

45 Determination of application

(1) After considering any application for approval made under section 40, the Authority (if the application is not approved under section 42, 42A, 42B, or 42C) may, in its discretion,—

(a) approve the application if—

(i) the application is for one of the purposes specified in section 39(1); and

(ii) after taking into account all the effects of the organism and any inseparable organism, including, but not limited to, the effects on the matters in section 43 (for application to develop a new organism in containment) or the matters in section 44 (for applications to import a new organism into, or field test a new organism in, containment), the beneficial effects of having the organism in containment outweigh the adverse effects of the organism and any inseparable organism; and

(iii) the Authority is satisfied that the organism can be adequately contained; or

(b) decline the application in any other case.

(2) An approval under this section—

(a) must include controls that provide for each of the applicable matters specified in Schedule 3; and

(b) may include controls that provide for any other matters in order to give effect to the purpose of this Act.

(3) *[Repealed]*

(4) In taking into account the adverse effects of the organism under subsection (1)(a)(ii), the Authority must take into account—

(a) the adverse effects (if any) of having the organism and any inseparable organism in containment; and

(b) the probability that the organism may escape after considering all the controls to which the organism would be subject if the application were approved; and

(c) the effects of the organism, if the organism were to escape.

Section 45(1): amended, on 20 April 2010, by section 13 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 45(1)(a)(ii): substituted, on 1 July 2011, by section 12 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

Section 45(2): substituted, on 31 December 2000, by section 17 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 45(3): repealed, on 1 November 2022, by section 19 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 45(4): added, on 30 October 2003, by section 26(3) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

45A Controls required for certain developments and for all field tests

(1) This section applies to an approval under section 45—

(a) to develop a new organism in containment that is a genetically modified organism, to the extent that the development does not take place in a containment structure; or

(b) to field test a new organism in containment if the new organism is a genetically modified organism.

(2) An approval—

(a) must include controls to ensure that, after the end of the development or field test, the organism and any heritable material from the organism is removed or destroyed; and

(b) may include controls to ensure that, after the end of the development or field test and after heritable material is removed or destroyed, some or all of the genetic elements remaining from the organism are removed or destroyed.

(3) In subsection (2), **destroyed** includes leaving genetic elements to break down or become inactive at the site of the development or field test.

Section 45A: inserted, on 28 May 2002, by section 8(1) of the Hazardous Substances and New Organisms (Genetically Modified Organisms) Amendment Act 2002 (2002 No 13).

45B Animals in circus or zoological garden deemed approved under section 255

The Authority may, for a deemed approval under section 255,—

(a) include controls that provide for each of the applicable matters specified in Schedule 3; and

(b) include controls that provide for any other matters in order to give effect to the purpose of this Act; and

(c) remove or vary the conditions imposed under section 255 that the organism remains at a particular place.

Section 45B: inserted, on 30 October 2003, by section 27 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Use of hazardous substances and new organisms in emergencies

46 Meaning of emergency

(1) For the purposes of section 30(c) and sections 47 to 49, **emergency** means—

(a) an event involving the release of a new organism for which a national pest management plan has been approved under section 66 of the Biosecurity Act 1993; or

(b) a state of emergency declared under the Emergency Management Act 2026; or

(c) an emergency as defined in section 6 of the Fire and Emergency New Zealand Act 2017; or

(d) an emergency declared under Part 9; or

(e) a marine oil spill emergency under the Maritime Transport Act 1994.

(2) Sections 47 and 48 apply to every foreseeable emergency where the importation, release, or use of the hazardous substance or new organism in that emergency is also foreseeable.

Section 46(1)(a): amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Section 46(1)(b): substituted, on 1 December 2002, by section 117 of the Civil Defence Emergency Management Act 2002 (2002 No 33).

Section 46(1)(b): amended, on 4 September 2026, by section 235 of the Emergency Management Act 2026 (2026 No 53).

Section 46(1)(c): amended, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

47 Application for approval to use a hazardous substance or new organism in an emergency

(1) Every person intending to—

(a) import any hazardous substance for release in an emergency; or

(b) import any new organism for release in an emergency; or

(c) release any new organism from containment in an emergency; or

(d) release any hazardous substance from containment in an emergency; or

(e) use any hazardous substance in an emergency in a manner which would otherwise contravene the provisions of this Act or any regulations or any EPA notice—

shall, before importation or release or use, apply to the Authority for approval to import or release or use.

(2) Every application shall be in an approved form and shall include—

(a) information to identify the substance or organism; and

(b) information showing that the hazardous substance or new organism is necessary to deal with an emergency; and

(c) a proposed plan for dealing with the use of the substance or organism in the emergency; and

(d) all information relating to the effects of the substance or organism; and

(e) such other information as may be prescribed.

(3) The Authority may, by written notice given to the applicant, require the applicant to verify an application by statutory declaration.

(4) An applicant may, by written notice to the Authority, withdraw the application at any time.

Section 47(1)(e): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 47(2): amended, on 31 December 2000, by section 18 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

48 Determination of applications

(1) The Authority may approve or decline an application under section 47, but may only decline the application if it is satisfied that—

(a) the organism or substance is not necessary for use in the emergency; or

(b) if the application relates to a substance, the proposed plan does not adequately control the adverse effects of the substance; or

(c) if the application relates to a new organism, the proposed plan does not adequately control the adverse effects of the organism or any inseparable organism (including, but not limited to, adequate control of the organism if the organism is likely to establish an undesirable self-sustaining population, taking into account the ease of destroying such a population).

(2) When approving the substance or organism in accordance with subsection (1), the Authority shall impose the following controls:

(a) that the substance or organism only be released when an emergency has been declared under this Act or declared in accordance with the provisions of any other Act:

(b) that the organism or substance only be released for a specified type of emergency:

(c) that the organism or substance may only be released if the emergency is dealt with in accordance with a specified plan which includes:

(i) the measures which must be taken to avoid, remedy, or mitigate any actual or potential adverse effects from the use of that substance or organism:

(ii) the requirements for the disposal of the hazardous substance and any waste products:

(iii) the requirements for the eradication or control of any new organism.

(3) *[Repealed]*

Section 48(3): repealed, on 1 November 2022, by section 20 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

49 Exemptions from provisions of Act in emergencies

Subject to sections 49A to 50, nothing in this Act shall apply to any hazardous substance or new organism required for use in an emergency where—

(a) the emergency; or

(b) the use of the substance or organism in the emergency—

was not foreseeable.

Section 49: amended, on 30 October 2003, by section 28 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Rapid assessment and approval of agricultural compounds and medicines in special emergencies

Heading: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49A Interpretation

In sections 49B to 49K,—

adverse event includes, but is not limited to, any of the events or emergencies specified in section 46(1)

agricultural compound means an agricultural compound (as defined in section 2(1) of the Agricultural Compounds and Veterinary Medicines Act 1997) that is or contains a hazardous substance or a new organism

government agency means—

(a) a department as defined in section 5 of the Public Service Act 2020:

(b) a Crown entity specified in Schedule 4 or 4A of the Public Finance Act 1989

interested government agency means a government agency that, in the opinion of the Authority, is likely to have an interest in the approval of an agricultural compound or medicine in a special emergency

medicine means a medicine (as defined in section 3 of the Medicines Act 1981) that is or contains a hazardous substance or new organism

responsible Minister means the Minister who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of—

(a) this Act; or

(b) the Agricultural Compounds and Veterinary Medicines Act 1997; or

(c) the Biosecurity Act 1993; or

(d) the Conservation Act 1987; or

(e) the Fisheries Act 1996; or

(f) the Health Act 1956; or

(g) the Medicines Act 1981

special emergency means a special emergency declared under section 49B.

Section 49A: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 49A **government agency** paragraph (a): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 49A **government agency** paragraph (b): amended, on 18 July 2013, by section 57 of the Public Finance Amendment Act 2013 (2013 No 50).

49B Declaration of special emergency

(1) A responsible Minister may declare an adverse event to be a special emergency if the adverse event is a matter that comes within the Minister's portfolio.

(2) A declaration of a special emergency must be notified or published in the *Gazette* as soon as practicable after the special emergency is declared.

(3) A special emergency expires—

(a) on the close of the date (if any) specified in the declaration as the expiry date; or

(b) if paragraph (a) does not apply, then on the close of a date specified by notice in the *Gazette* as the date of expiry of the emergency.

Section 49B: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 49B(2): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

49C Application of sections 49D to 49K

Sections 49D to 49K apply to a special emergency whether or not—

(a) the special emergency is foreseeable; and

(b) the importation, release, or use of an agricultural compound or medicine in the special emergency is foreseeable.

Section 49C: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49D Application for approval to use agricultural compound or medicine in special emergency

(1) A person who does not have approval under this Act to do a thing specified in subsection (2) may apply to the Authority to do the thing in a special emergency.

(2) The things are—

(a) import any agricultural compound or medicine for release; or

(b) manufacture an agricultural compound or medicine that is a hazardous substance otherwise in containment; or

(c) release any agricultural compound or medicine from containment; or

(d) use any agricultural compound or medicine in a manner that would contravene this Act or any regulations or any EPA notice.

(3) For the purposes of subsection (1),—

(a) it does not matter whether the application is made or approved before or after the special emergency has been declared:

(b) the applicant may import, release, or use the agricultural compound or medicine before the declaration of the special emergency has been notified or published in the *Gazette*.

Section 49D: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 49D(2)(d): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

49E Contents of application

(1) An application under section 49D must be in the approved form and must include information required by the Authority that, having regard to the particular circumstances of the special emergency, the applicant can provide to the Authority in the time available.

(2) Without limiting subsection (1), the Authority may require the following information:

(a) information to identify the agricultural compound or medicine and the hazardous substance or new organism that is or is contained in the agricultural compound or medicine; and

(b) information showing that the agricultural compound or medicine is necessary to deal with the special emergency; and

(c) a proposed plan for dealing with the use of the agricultural compound or medicine in the special emergency; and

(d) any reports by experts available from—

(i) the applicant:

(ii) any overseas regulatory agencies; and

(e) written confirmation by the applicant that the agricultural compound or medicine satisfies all relevant manufacturing practices and standards; and

(f) information on whether the agricultural compound or medicine has been approved for use in an overseas country; and

(g) information on whether approval for use of the agricultural compound or medicine has been declined in an overseas country; and

(h) information on the nature of the special emergency; and

(i) information on the nature of the agricultural compound or medicine; and

(j) information on the labelling of the agricultural compound or medicine; and

(k) all other prescribed information (if any).

(3) The Authority may, by written notice given to the applicant, require the applicant to verify the application by statutory declaration.

(4) An applicant may, by written notice to the Authority, withdraw the application at any time.

Section 49E: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49F Determination of applications

(1) As soon as practicable after receiving an application under section 49D, the Authority must complete a rapid assessment of the application and decide whether to approve or decline the application.

(2) In determining whether to approve or decline the application, the Authority must—

(a) consult, and have particular regard to the views of, the Department of Conservation; and

(b) consult and consider the views of any other interested government agency; and

(c) consider all the information on the matters specified in section 49E that, having regard to the particular circumstances of the special emergency, the applicant can provide to the Authority in the time available.

(3) The Authority may decline the application only if it is satisfied that—

(a) the agricultural compound or medicine is not necessary for use in the special emergency; or

(b) if the application relates to a hazardous substance, the proposed plan does not adequately control the adverse effects of the hazardous substance; or

(c) if the application relates to a new organism, the proposed plan does not adequately control the adverse effects of the new organism or any inseparable organism (including, but not limited to, adequate control of the organism if the organism is likely to establish an undesirable self-sustaining population, taking into account the ease of destroying such a population).

Section 49F: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49G Controls attaching to approval of application

If the Authority approves an application under section 49F, the Authority must impose the control that the agricultural compound or medicine may be released only if the special emergency is dealt with in accordance with the specified plan, and the plan includes—

(a) the measures that must be taken to avoid, remedy, or mitigate any actual or potential adverse effects from the use of the agricultural compound or medicine:

(b) the requirements for the disposal of the agricultural compound or medicine and any waste products:

(c) the requirements for the eradication or control of any new organism.

Section 49G: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49H Notification or publication of approval of application

(1) An approval under section 49F and the reasons for the approval must be notified or published in the *Gazette*.

(2) The notified or published approval—

(a) must describe the special emergency to which it relates; and

(b) must specify where a copy of the plan for dealing with the use of the agricultural compound or medicine in the special emergency may be inspected or obtained; but

(c) need not specify what the approval has been granted for.

(3) If the approval is only notified in the *Gazette*,—

(a) the notice must specify where a copy of the approval may be inspected or obtained; and

(b) the Authority must make copies of the approval available for inspection free of charge, and for purchase at a reasonable cost, at the head office of the Authority and at any other places that the Authority determines as necessary or appropriate.

Section 49H: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49I Effect of approval of release

(1) An approval for the importation, release, or use of an agricultural compound or medicine in a special emergency is limited to the importation, release, or use of the agricultural compound or medicine in the special emergency.

(2) If an approval relates to a new organism, the organism does not cease to be a new organism because it is released in accordance with the approval.

Section 49I: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49J Duration of approval

An approval under section 49F takes effect on the day specified in the approval, and expires on the earlier of—

(a) the date of expiry (if any) of the special emergency specified by a responsible Minister in—

(i) the declaration declaring the special emergency; or

(ii) a later declaration declaring that the special emergency has ceased; or

(b) the date of expiry (if any) specified by the Authority in the approval, which must not be later than the date of expiry of the special emergency; or

(c) if paragraph (a) or paragraph (b) does not apply, 2 years after the date on which the approval is granted.

Section 49J: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49K Consequences of expiry of approval

On the expiry of an approval under section 49F that relates to a hazardous substance or new organism, the hazardous substance or new organism must be disposed of unless, before the expiry of the approval, the applicant has, under any other provision of this Act, been granted an approval.

Section 49K: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Rapid assessment and approval of other hazardous substances in special emergencies

Heading: inserted, on 22 December 2005, by section 14 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

49L Rapid assessment and approval of other hazardous substances in special emergencies

(1) Sections 49A to 49K apply, with all necessary modifications, to the rapid assessment and approval of other hazardous substances in special emergencies.

(2) In this section, **other hazardous substances** means hazardous substances that are not already covered by sections 49A to 49K by virtue of being contained in an agricultural compound or a medicine.

Section 49L: inserted, on 22 December 2005, by section 14 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Prohibited list organisms

50 Prohibited organisms

(1) The importation or release or development of any organism specified in Schedule 2 is prohibited.

(2) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend Schedule 2 to—

(a) add a new organism that the Authority has, under subsection (3), recommended to the Minister be included in the schedule:

(b) add a new organism, or group or groups of new organisms, that have adverse effects on the health and safety of people or the environment:

(c) remove an organism or group of organisms, but only if the organism was inserted by Order in Council.

(2A) Subsection (2) applies subject to section 141.

(2B) An organism in Schedule 2 that is prescribed as not a new organism in regulations made under section 140(1)(ba) is to be treated as if it had been removed from that schedule.

(3) The Authority may, after declining any application made under this Act in relation to an organism, recommend to the Minister that an Order in Council be made to include the organism in Schedule 2, where the Authority is satisfied that—

(a) the organism is likely to have any of the effects described in section 36; and

(b) any likely adverse effects which may occur should the organism escape from containment would outweigh any likely beneficial effects of allowing the organism to be imported into containment.

(4) The Authority, when making a recommendation under subsection (3), may advise the Minister that a group of organisms should be included in Schedule 2 if it is difficult for persons to distinguish between high-risk and low-risk members of that group.

(5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 50(1): amended, on 30 October 2003, by section 30(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 50(2): substituted, on 30 October 2003, by section 30(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 50(2A): inserted, on 30 October 2003, by section 30(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 50(2B): inserted, on 30 October 2003, by section 30(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 50(3): amended, on 30 October 2003, by section 30(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 50(4): amended, on 30 October 2003, by section 30(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 50(5): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Transhipment

51 Transhipment of substances and organisms

(1) Nothing in this Act shall apply to any hazardous substance or new organism transhipped through New Zealand where any person has—

(a) received approval from the Authority to tranship the hazardous substances or new organism; and

(b) complied with any controls that the Authority has imposed on the transhipment.

(2) The Authority—

(a) shall decline approval to tranship any organism specified in Schedule 2:

(b) may, within 10 working days after receipt of the application,—

(i) decline approval to tranship any hazardous substance or new organism if the Authority considers that the substance or organism cannot be adequately contained so as to prevent the environment

from being exposed to the substance or organism or any adverse effects of the substance or organism; or

(ii) approve the transhipment of any hazardous substance or new organism with such controls as the Authority thinks fit.

Section 51(2)(a): amended, on 30 October 2003, by section 31 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Procedure for assessment

52 Applicant may be required to provide further information

(1) Where the Authority considers that an applicant is able to provide further relevant information, the Authority may, by written notice given to the applicant not later than 10 working days after the receipt of the application, require the applicant to supply such further information relating to the application as is specified in the notice.

(2) Where the applicant fails to comply with any request made in accordance with subsection (1) within 1 year after the date of the request, the application shall lapse.

53 Applications required to be publicly notified

(1) The following applications shall be publicly notified by the Authority:

(a) *[Repealed]*

(ab) an application under section 38A for a conditional release approval for a new organism, if the application has not been approved under section 38BA:

(b) an application, under section 34, to import for release any new organism, if the application has not been approved under section 35 or section 38I:

(c) an application, under section 34, to release any new organism from containment, if the application has not been approved under section 38I:

(d) an application, under section 40, to field test a genetically modified organism:

(e) an application under section 47 to import, release, or use a hazardous substance or a new organism in an emergency:

(f) *[Repealed]*

(1A) The Authority must publicly notify, in 1 or more public notices,—

(a) an application under section 96B to issue, amend, or revoke a group standard; and

(b) the proposal to issue or amend (as the case may be) a group standard; and

(c) the Authority's assessment of the matters required under section 96C(1)(a), (b), (c), (d), and (e) in relation to a group standard as proposed to be issued or amended.

(2) The Authority may, if it considers that there is likely to be significant public interest, publicly notify—

(a) an application under section 40 in respect of a new organism (other than a genetically modified organism), if the application has not been approved under section 42C; or

(b) an application under section 40 to import into containment or develop in containment a genetically modified organism, if the application has not been approved under section 42, 42A, or 42B; or

(c) an application under section 28, if the application has not been approved under section 28A.

(3) The public notice shall state—

(a) that any person may make a written submission on the application; and

(b) a closing date for receipt of submissions by the Authority; and

(c) the place where the application and accompanying information may be viewed, and the address for service of the Authority and the applicant unless that information has been withheld—

(i) in accordance with the Official Information Act 1982; or

(ii) in accordance with this Act.

(4) The Authority must notify the Minister when it receives an application that—

(a) is required to be publicly notified; or

(b) the Authority decides to publicly notify.

Section 53(1)(a): repealed, on 20 April 2010, by section 14(1) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 53(1)(ab): inserted, on 30 October 2003, by section 32(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 53(1)(ab): amended, on 20 April 2010, by section 14(2) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 53(1)(b): amended, on 30 October 2003, by section 32(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 53(1)(c): amended, on 30 October 2003, by section 32(3) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 53(1)(f): repealed, on 5 September 2015, by section 12(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 53(1A): inserted, on 5 September 2015, by section 12(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 53(2): substituted, on 20 April 2010, by section 14(3) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 53(3)(b): amended, on 7 May 1999, by section 5 of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 53(3)(c)(ii): amended, on 7 May 1999, by section 15(b) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 53(4): replaced, on 1 November 2022, by section 6 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

53AA Notification and consultation for applications under Part 5

(1) The Authority must, when it receives an application made under a provision in Part 5, notify—

(a) any department or Crown entity that, in the opinion of the Authority, is likely to have an interest in the application; and

(b) if the application is an application for approval of a new organism,—

(i) the Department of Conservation; and

(ii) any local authority if, in the opinion of the Authority, the local authority is likely to have an interest in the application; and

(c) if the application is an application for approval of a hazardous substance, WorkSafe.

(2) Subsections (3) to (6) apply to all applications under sections 63A, 63C, and 63D.

(3) The Authority may reassess an application under section 63A, 63C, or 63D without publicly notifying the reassessment in accordance with section 53.

(4) The Authority must consult in accordance with subsection (5) if the Authority—

(a) does not publicly notify an application in accordance with section 53; and

(b) considers that the application will have—

(i) significant cultural, economic, environmental, ethical, health, or international effects; or

(ii) significant effects in an area in which the Authority lacks sufficient knowledge or expertise.

(5) The Authority must—

(a) do everything reasonably practicable on its part to consult all persons who, in its opinion, are likely to be directly affected by the reassessment; and

(b) give those persons a reasonable opportunity to make submissions and comments to the Authority on the reassessment; and

(c) consider all submissions and comments received before approving or declining the application.

(6) If the Authority is not required to consult by subsection (4), the Authority may consult any person before approving or declining the application.

Section 53AA: inserted, on 1 November 2022, by section 7 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

53A Method of public notification

[Repealed]

Section 53A: repealed, on 5 September 2015, by section 13 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

54 Submission on application

(1) Any person may make a written submission on any publicly notified application to the Authority.

(2) The submission—

(a) shall state the reasons for making the submission; and

(b) may state any decision sought; and

(c) shall state whether the person making the submission wishes to be heard.

(3) The Authority shall forward a copy of every submission to the applicant as soon as reasonably practicable after receipt of it by the Authority.

55 Information held on behalf of applicant

(1) Where any person—

(a) supplies any information to the Authority; and

(b) the information is likely to relate to an application for approval; and

(c) the relevant application has not yet been lodged with the Authority,—

the information shall be held by the Authority on behalf of that person; and the provisions of the Official Information Act 1982 shall not apply to that information until the relevant application has been received by the Authority.

(2) Where any information supplied under subsection (1) is held by the Authority on behalf of any person, that information shall be returned upon request.

(3) Sections 23A to 23C of the Medicines Act 1981 apply (with the necessary modifications) to the Authority (as if it were the Minister of Health) in relation to confidential information received in respect of an application made under this Act if—

(a) the hazardous substance or new organism to which the application relates is or has been the subject of an innovative medicine application; and

(b) the confidential information is about that substance or organism; and

(c) the Minister of Health is, at the time the Authority wants to disclose or use the information, required under section 23B of the Medicines Act 1981 to protect information provided in, or in relation to, the innovative medicine application.

(4) Part 6 of the Agricultural Compounds and Veterinary Medicines Act 1997 applies (with the necessary modifications) to the Authority (as if it were the Director-General) in relation to confidential information received in respect of an application made under this Act if—

(a) the hazardous substance or new organism to which the application relates is or has been the subject of an innovative TNP application; and

(b) the confidential information is about that substance or organism; and

(c) the Director-General is, at the time the Authority wants to disclose or use the information, required under Part 6 of the Agricultural Compounds and Veterinary Medicines Act 1997 to protect information provided in support of the innovative TNP application.

(4A) *[Repealed]*

(4B) *[Repealed]*

(5) Despite subsections (3) and (4),—

(a) the Authority must make available a summary of the effects of a hazardous substance or new organism for the purposes of section 53(3)(c) if the Authority is required to publicly notify the application that relates to that substance or organism under section 53:

(b) the Authority may disclose confidential information to prescribed persons or organisations or persons or organisations within prescribed classes of persons or organisations.

(6) For the purposes of subsection (5)(b), the Governor-General may, by Order in Council, make regulations prescribing persons, organisations, or classes of persons or organisations.

(7) In this section, **confidential information** means information that includes either or both of the following:

(a) trade secrets:

(b) information with a commercial value that would, or would be likely to, be diminished by disclosure of the information.

(8) Regulations under subsection (6) are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 55(3): replaced, on 8 November 2016, by section 11 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2016 (2016 No 82).

Section 55(4): replaced, on 8 November 2016, by section 11 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2016 (2016 No 82).

Section 55(4A): repealed, on 8 November 2016, by section 11 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2016 (2016 No 82).

Section 55(4B): repealed, on 8 November 2016, by section 11 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2016 (2016 No 82).

Section 55(5): replaced, on 8 November 2016, by section 11 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2016 (2016 No 82).

Section 55(6): replaced, on 8 November 2016, by section 11 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2016 (2016 No 82).

Section 55(7): replaced, on 8 November 2016, by section 11 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2016 (2016 No 82).

Section 55(8): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

56 Consideration of information withheld under Official Information Act 1982

Any information withheld from any person in accordance with section 9(2)(b) of the Official Information Act 1982 may be considered by the Authority in reaching a decision under this Act.

57 Authority to withhold information

(1) Where, in the Authority's opinion, any information which has been supplied to the Authority in respect of any application may be able to be withheld under section 9(2)(b) of the Official Information Act 1982, that information shall not be released to any person when any application is publicly notified.

(2) Where—

(a) the Authority receives a request to release any information held by the Authority under the Official Information Act 1982; and

(b) the information to which the request relates,—

(i) in the Authority's opinion, may be able to be withheld under section 9(2)(b) of that Act; or

(ii) has been classified as commercially sensitive by the person who gave the information to the Authority,—

the Authority shall make all reasonable efforts to contact and notify immediately the person who gave the information to the Authority that a request to release the information has been received.

(3) Where a person receives notice from the Authority under subsection (2), that person shall, within 10 working days of receipt of the notice, respond to the Authority stating whether that person believes that the information should be withheld under section 9(2)(b) of the Official Information Act 1982 and give reasons for that person's belief.

(4) The Authority may release the information or withhold the information in accordance with the Official Information Act 1982 if—

(a) the Authority has complied with subsection (2); and

(b) the time limit specified in subsection (3) has expired.

Section 57(2): amended, on 30 October 2003, by section 34(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 57(4): substituted, on 30 October 2003, by section 34(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

58 Further information

(1) The Authority—

(a) may commission a report or seek advice from any person on any matters raised in relation to the application, including a review of any information provided by the applicant:

(b) may obtain any existing relevant information on the substance or organism which is the subject of the application from any source:

(c) must consult with all departments or Crown entities notified of the application in accordance with section 53(4) and,—

(i) if any application is for approval to import, develop, field test, conditionally release, or release a new organism, have particular regard to any submissions made by the Department of Conservation; and

(ii) if any application is for approval to import or manufacture a hazardous substance, have particular regard to any submissions made by WorkSafe.

(1A) Any report, advice, or other information obtained under subsection (1) may be considered at any hearing conducted by the Authority.

(2) Where the Authority obtains further information under subsection (1), the Authority, at least 10 working days before commencement of the hearing or consideration, as the case may be, of the application, shall notify the applicant and every person who made a submission that the information is available for inspection, unless that information has been withheld in accordance with section 9(2)(b) of the Official Information Act 1982.

(3) Where information is requested in accordance with subsection (1), the Authority may postpone the hearing or consideration of the application until the information has been received.

Section 58(1)(c): replaced, on 1 December 2017, by section 14 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 58(1A): inserted, on 31 December 2000, by section 21(1) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 58(2): amended, on 31 December 2000, by section 21(2) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

59 Time limits and waivers

(1) The Authority shall,—

(a) where public notification of an application is required by section 53(1), (1A)(a), and (2), publicly notify that application within 10 working days of receipt unless paragraph (b) applies to that application:

(b) if any of sections 28A, 35, 38BA, 38I, 42, 42A, 42B, and 42C apply to the application,—

(i) make a rapid assessment of the application within 10 working days after receipt of the application; and

(ii) if the application is not approved under one of those sections, publicly notify the application, if required under this Act, within 10 working days of the Authority's decision:

(c) allow 30 working days from the date of public notification for the receipt of submissions:

(d) fix a date for commencement of the hearing or (where there is no hearing) for consideration of the application, being not more than 30 working days after the receipt of the application or the closing date for submissions, whichever is the later:

(e) give the applicant at least 10 working days' notice of the commencement date and the time and place of the hearing or consideration of the application:

(f) give every person who has made a submission on the application and who has stated his or her wish to be heard, at least 10 working days' notice of the commencement date and the time and place of the hearing.

(2) The Authority shall publicly notify its decision as soon as reasonably practicable but not later than 30 working days after the conclusion of the hearing or, where there is no hearing, the consideration of the application.

(3) A person may apply to the Authority to—

(a) waive a requirement of this Act or a regulation or an EPA notice concerning—

(i) the time within which any action shall be carried out; or

(ii) the information that shall be supplied; or

(b) give a direction concerning—

(i) the time within which any action shall be carried out; or

(ii) the terms, including terms as to adjournment, costs, or other matters, on which any information shall be supplied.

(4) The Authority shall not extend or reduce any time period or grant an application under this section to waive a requirement as to the time within which any action shall be carried out unless it is satisfied that—

(a) the applicant and the persons making submissions consent to that waiver; or

(b) any of those parties who have not so consented will not be unduly prejudiced.

(5) Subject to subsection (4), the Authority may at any time extend or reduce any time limit under this Act whether or not—

(a) an application has been made under this section; or

(b) that time limit has expired,—

but in all cases must ensure the matter is carried out as promptly as is reasonable in the circumstances.

(6) If the relevant CPTPP or TPP provision applies to an application to which subsection (1)(c) applies, the Authority must act under subsection (5) to extend (or further extend) the time limit given by subsection (1)(c) as the Authority considers appropriate to give effect to the relevant CPTPP or TPP provision.

(7) An extension given for the purposes of subsection (6) applies for all submissions.

(8) In subsection (6), **relevant CPTPP or TPP provision** means—

(a) Article 8.7.14 of the Trans-Pacific Partnership Agreement (done at Auckland on 4 February 2016) (technical barriers to trade: transparency: periods to comment on proposals):

(b) that provision as incorporated into the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, done at Santiago, Chile, on 8 March 2018, by Article 1.1 of that agreement.

(9) Subsection (4) does not apply where the Authority is acting under subsection (5) for the purposes of subsection (6).

Section 59(1)(a): amended, on 5 September 2015, by section 15(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 59(1)(a): amended, on 30 October 2003, by section 36(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 59(1)(b): substituted, on 30 October 2003, by section 36(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 59(1)(b): amended, on 20 April 2010, by section 15 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 59(1)(d): amended, on 31 December 2000, by section 22(2) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 59(2): amended, on 30 October 2003, by section 36(3) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 59(3)(a): amended, on 5 September 2015, by section 15(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 59(4): amended, on 31 December 2000, by section 22(3) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 59(5): amended, on 31 December 2000, by section 22(4) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 59(6): inserted, on 30 December 2018, by section 58 of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 59(7): inserted, on 30 December 2018, by section 58 of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 59(8): inserted, on 30 December 2018, by section 58 of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

Section 59(9): inserted, on 30 December 2018, by section 58 of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90).

59A Joint processing and decision making on related applications

(1) This section applies if—

(a) the Authority receives related applications; and

(b) at least 1 of the applications is publicly notified in accordance with section 53 or required to be consulted on by section 53AA(4); and

(c) the Authority considers that decisions on the applications should be made on the same date.

(2) The Authority may extend a time period that applies to the processing of the related applications to ensure that—

(a) they are heard (if more than 1 application is to be heard) at the same time and place; and

(b) decisions on the applications are made on the same date.

(3) However, the Authority may not extend the time period beyond the latest date that applies to the related applications.

(4) In this section, **related applications** means applications in respect of hazardous substances (whether or not they have been approved or deemed to be approved) that are, or include, related chemicals or substances.

Compare: 2012 No 72 s 44

Section 59A: inserted, on 1 November 2022, by section 8 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

60 Obligation to hold hearing

A hearing of any application need not be held unless—

(a) the Authority considers that a hearing is necessary; or

(b) the applicant has made a written request to the Authority for a hearing; or

(c) a person who has made a submission stated in that submission that he or she wishes to be heard and has not subsequently advised that he or she does not wish to be heard.

61 Provisions relating to hearings

(1) The Authority shall consider and decide any application, other than an application which is the subject of a Ministerial direction under section 68.

(2) The Authority shall keep a record of all proceedings before it.

(3) For the purpose of considering any application, the Authority shall have the same powers as are conferred on a Commission of Inquiry by the Commissions of Inquiry Act 1908; and sections 4, 4B, 4D, 6, 7, 9, 11, and 12 of that Act shall apply accordingly.

(4) The members of the Authority shall have, in relation to any such consideration and any decision on any matter, the same immunities and privileges as are possessed by a District Court Judge.

(4A) Subsection (4) applies despite section 121 of the Crown Entities Act 2004.

(5) Every summons to a witness to appear at a hearing shall be in an approved form and be signed by the person chairing the hearing.

(6) All allowances for a witness shall be paid by the party on whose behalf the witness is called.

(7) The Authority shall hold any hearing of a publicly notified application in public and shall establish a procedure that is appropriate and fair in the circumstances and may—

(a) permit cross-examination; or

(b) permit questions in clarification; or

(c) permit only the members of the Authority to question any person.

(8) At the hearing, the applicant and any person who made submissions and stated that they wished to be heard may speak (either personally or through a representative) and call evidence.

(9) Where any person who has stated that he or she wished to be heard fails to appear at the hearing, the Authority may nevertheless proceed with the hearing if it considers it fair and reasonable to do so.

Section 61(4A): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 61(5): amended, on 31 December 2000, by section 23 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 61(7): amended, on 7 May 1999, by section 6 of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

62 Grounds for reassessment of substance or organism

(1) Any person (including the chief executive of the Authority) may at any time request the Authority to decide whether there are grounds for reassessing any of the following where the organism or substance has previously been assessed by the Authority:

(a) any new organism in containment:

(b) any conditionally released new organism:

(c) any qualifying organism released with controls:

(d) any hazardous substance.

(2) If a request has been made under subsection (1), the Authority may decide that grounds exist to reassess the organism or substance after taking into account—

(a) that significant new information relating to the effects of the organism or substance has become available; or

(b) any change in controls under the Health and Safety at Work Act 2015; or

(c) that another substance with similar or improved beneficial effects and reduced adverse effects has become available; or

(d) that information showing a significant change of use, or a significant change in the quantity manufactured, imported, or developed, has become available; or

(e) whether the substance has been included in the reassessments work plan required by section 20C.

(3) For the purposes of subsection (1), **assessed by the Authority** means a decision under any of sections 28A, 29, 32, 38BA, 38C, 38I, 42, 42A, 42B, 42C, 45, and 48 or a decision by the Minister under section 73, or a deemed assessment under section 160A.

Section 62: replaced, on 1 November 2022, by section 21 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

63 Reassessment

(1) Any person (including the chief executive of the Authority) may request the Authority to proceed with a reassessment following a decision under section 62(2).

(2) A reassessment under this section shall be deemed to be an application and shall be publicly notified in accordance with section 53 and—

(a) section 29 and sections 54 to 61 shall apply with all necessary modifications to a reassessment of a hazardous substance approved under section 28A or section 29:

(b) sections 30 and 32 shall apply with all necessary modifications to a reassessment of a hazardous substance approved under section 32:

(c) sections 39 to 45 and sections 54 to 61 shall apply with all necessary modifications to a reassessment of a new organism in containment approved under section 42, 42A, 42B, 42C, or 45:

(ca) sections 38A to 38D and 54 to 61 apply with all necessary modifications to a reassessment of a conditional release approval:

(cb) sections 38I to 38L and 54 to 58 apply with all necessary modifications to a reassessment of a qualifying organism released with controls:

(d) sections 47 and 48 and sections 54 to 61 shall apply with all necessary modifications to a reassessment of a hazardous substance or new organism for use in an emergency approved under section 48.

(3) However, a reassessment of a qualifying organism released with controls is not required to be publicly notified in accordance with section 53.

Section 63(1): replaced, on 1 November 2022, by section 22 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 63(2)(a): amended, on 2 July 2001, by section 25 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 63(2)(c): amended, on 20 April 2010, by section 17 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 63(2)(ca): inserted, on 30 October 2003, by section 38(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 63(2)(cb): inserted, on 30 October 2003, by section 38(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 63(3): added, on 30 October 2003, by section 38(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

63A Modified reassessment procedure for amendments to approvals of hazardous substances

(1) Despite anything to the contrary in this Act, the Authority may, following a decision under section 62(2), reassess a hazardous substance in accordance with this section if the Authority considers that—

(a) a reassessment of the hazardous substance under section 63 is not appropriate because the reassessment will involve only a specific aspect of the approval; and

(b) the amendment is not a minor or technical amendment to which section 67A applies.

(2) A reassessment under this section—

(a) may vary the EPA controls that attach to a hazardous substance, or the description of a hazardous substance, or both; but

(b) may not revoke an approval given to a hazardous substance under this Act to import or manufacture the substance.

(3) A reassessment under this section is deemed to be an application, and sections 53AA and 55 to 61 apply with all necessary modifications.

(4) *[Repealed]*

(5) *[Repealed]*

(6) The Authority may approve or decline an application for reassessment under this section as it considers appropriate after taking into account—

(a) all the effects associated with the reassessment; and

(b) the best international practices and standards for the safe management of hazardous substances.

(7) Sections 77, 77A, and 77B apply to any hazardous substance that is approved under this section and, for the purposes of this section, controls previously

imposed under section 77A have effect as other specified controls under that section.

(8) Section 65(e) applies, with all necessary modifications, to a reassessment under this section.

Section 63A: inserted, on 22 December 2005, by section 16 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 63A(2)(a): amended, on 1 December 2017, by section 17(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 63A(3): amended, on 1 November 2022, by section 23(1) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 63A(4): repealed, on 1 November 2022, by section 23(2) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 63A(5): repealed, on 1 November 2022, by section 23(2) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 63A(7): replaced, on 1 December 2017, by section 17(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

63B Proposal for group standard may be consulted on in same way as reassessment

(1) This section applies if the Authority—

(a) decides to reassess a hazardous substance under section 63A without publicly notifying the reassessment in accordance with section 53; and

(b) proposes to issue, amend, or revoke (under section 96B) a group standard that applies to the hazardous substance, on similar grounds to the grounds for deciding to reassess the substance.

(2) The Authority may consult on the following matters, in accordance with section 63A(5), as if they were part of the reassessment:

(a) the proposal to issue, amend, or revoke the group standard; and

(b) its assessment of the matters referred to in section 53(1A)(c).

(3) If the Authority consults in accordance with subsection (2), then the public notice requirements of sections 53(1A), 96C(2), and 96D do not apply.

Section 63B: inserted, on 20 April 2010, by section 18 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 63B(2)(b): amended, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 63B(3): amended, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

63C Modified reassessment to change controls in other cases

(1) Despite anything to the contrary in this Act, the Authority may reassess a hazardous substance in accordance with this section if the Authority considers that—

(a) a reassessment of the hazardous substance under section 63 is not appropriate because the reassessment will involve only a specific aspect of the approval; and

(b) the amendment is not a minor or technical amendment to which section 67A applies; and

(c) the reassessment is necessary because of a change in the hazard classification system, controls in regulations, EPA controls, or controls under the Health and Safety at Work Act 2015.

(2) A reassessment under this section—

(a) may vary 1 or more of the following:

(i) the EPA controls that attach to a hazardous substance:

(ii) the description of a hazardous substance:

(iii) the hazard classification of a hazardous substance; but

(b) may not revoke an approval given to import or manufacture a hazardous substance under this Act.

(3) A reassessment under this section is deemed to be an application, and sections 53AA and 55 to 61 apply with all necessary modifications.

(4) *[Repealed]*

(5) *[Repealed]*

(6) The Authority may approve or decline an application for reassessment under this section as it considers appropriate after taking into account—

(a) all the effects associated with the reassessment; and

(b) the best international practices and standards for the safe management of hazardous substances.

(7) Section 65(e) applies, with all necessary modifications, to a reassessment under this section.

(8) Sections 77, 77A, and 77B apply to any hazardous substance that is approved under this section and, for the purposes of this section, controls previously imposed under section 77A have effect as other specified controls under that section.

(9) This section does not limit the operation of section 77(2)(a).

Section 63C: inserted, on 1 December 2017, by section 18 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 63C(3): amended, on 1 November 2022, by section 24(1) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 63C(4): repealed, on 1 November 2022, by section 24(2) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 63C(5): repealed, on 1 November 2022, by section 24(2) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

63D Modified reassessment to align classifications

(1) Despite anything to the contrary in this Act, the Authority may reassess a hazardous substance in accordance with this section if the Authority is satisfied that—

(a) a reassessment of the hazardous substance under section 63 is not appropriate because the reassessment will involve only a specific aspect of the approval; and

(b) the amendment is not a minor or technical amendment to which section 67A applies; and

(c) the reassessment is necessary to change a hazard classification or control to align with—

(i) the equivalent of a hazard classification or control that has been set by an international regulator; or

(ii) a hazard classification or control of a related substance that was the subject of an Authority decision after the hazardous substance was approved by the Authority.

(2) A reassessment under this section—

(a) may vary 1 or more of the following:

(i) the EPA controls that attach to a hazardous substance:

(ii) the description of a hazardous substance:

(iii) the hazard classification of a hazardous substance; but

(b) may not revoke an approval given to import or manufacture a hazardous substance under this Act.

(3) A reassessment under this section is treated as an application, and sections 53AA and 55 to 61 apply with all necessary modifications.

(4) The Authority may approve or decline an application for reassessment under this section as it considers appropriate after taking into account—

(a) all the effects associated with the reassessment; and

(b) the best international practices and standards for the safe management of hazardous substances.

(5) Section 65(e) applies, with all necessary modifications, to a reassessment under this section.

(6) Sections 77, 77A, and 77B apply to any hazardous substance that is approved under this section and, for the purposes of this section, controls previously imposed under section 77A have effect as other specified controls under that section.

(7) This section does not limit the operation of section 77(2)(a).

(8) An applicant relying on subsection (1)(c)(i) must provide the Authority with evidence of the right to use the information relied on in the application.

(9) The Authority must not reassess a hazardous substance under this section more than once in a 12-month period.

Section 63D: inserted, on 1 November 2022, by section 9 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

64 Suspension of approvals during reassessment

Where an application to reassess any hazardous substance has been publicly notified under section 63(2), and the Authority has reasonable cause to believe that there is significant actual or imminent danger to human health or safety or the environment from the continued use of the substance, the Authority, by notice in the *Gazette*, may direct that any further use of the substance is prohibited until such time as a decision has been made following the reassessment.

Section 64: amended, on 1 November 2022, by section 25 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

64A Temporary restriction of use during reassessment

(1) The Authority may, by notice in the *Gazette*, restrict the use of a hazardous substance in accordance with this section if—

(a) a decision under section 62(2) that grounds exist to reassess the hazardous substance has been publicly notified; and

(b) the Authority has not approved or declined a reassessment application relating to the decision under section 62(2), or no application for reassessment has been made; and

(c) the Authority has reasonable cause to believe that there is actual or likely danger to human health or safety or the environment from the use of the substance; and

(d) the Authority has consulted the persons who the Authority considers are likely to be directly affected by the restriction of use.

(2) The notice—

(a) may prohibit the use of a hazardous substance in specified circumstances or places, or by specified classes of persons; but

(b) must not prohibit the use of the hazardous substance generally.

(3) The notice—

(a) must identify the nature of the restriction, including any conditions, on the use of the hazardous substance; and

(b) remains in force until the earliest of the following:

(i) the date on which the Authority approves or declines a reassessment application relating to the hazardous substance:

(ii) the date on which the applicant withdraws a reassessment application relating to the hazardous substance:

(iii) the date that is 1 year after the date of notification in the *Gazette* if no reassessment application relating to the grounds decision under section 62(2) has been lodged with the Authority for the substance by that date.

(4) The Authority must publish the notice on an Internet site maintained by or on behalf of the Authority as soon as practicable after the notice has been published in the *Gazette*.

Section 64A: inserted, on 1 November 2022, by section 10 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

65 No compensation following reassessment

Where any hazardous substance or new organism is reassessed in accordance with section 63, 63A, 63C, or 63D, or a restriction is imposed under section 64A, or a group standard is amended or revoked under section 96B(3), no compensation shall be payable to any person for any loss where the Authority—

(a) declines to allow any further importation or manufacture of that substance; or

(b) declines to approve the release of any new organism from containment; or

(c) declines to approve any further importation, field testing, or development of any new organism in containment; or

(d) suspends any approval in accordance with section 64; or

(e) varies the controls on any substance or organism; or

(f) imposes a restriction under section 64A.

Section 65: amended, on 1 November 2022, by section 26(1) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 65: amended, on 1 December 2017, by section 19 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 65(f): inserted, on 1 November 2022, by section 26(2) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

66 Requirement for disposing of substances

(1) Where any hazardous substance has been reassessed in accordance with section 63 and the Authority has declined to allow any further importation or manufacture of that substance, the Authority may issue a direction, by notice in the *Gazette*, prohibiting the use of that substance and requiring that substance to be disposed of, at the owner's expense, in accordance with the controls placed on it by the Authority.

(2) Where the use of any hazardous substance is prohibited in accordance with subsection (1), the Authority may, if it thinks fit, add to or vary the controls on disposal of that substance to control any additional adverse effects of disposal of that substance in accordance with subsection (1), disclosed during reassessment.

66A Disposal of persistent organic pollutants

(1) If Schedule 2A does not specify a use for a persistent organic pollutant or a specified use has expired,—

(a) no person may use the substance; and

(b) the Authority may issue a direction, by notice, requiring the environmentally sound disposal of the persistent organic pollutant.

(2) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 66A: inserted, on 23 December 2004, by section 11 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 66A(1)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 66A(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

67 Authority to direct disposal of new organisms

Following any decision to—

(a) decline approval to release any new organism from containment; or

(b) decline approval to import, field test, or develop any new organism,—

the Authority may direct the owner of any such organism already in New Zealand to dispose of the organism at the owner's expense in accordance with the terms of the approval under which the organism was imported, field tested, or developed.

67A Minor or technical amendments to approvals

The Authority may, of its own motion, amend any approval given by it under this Part if it considers that the alteration is minor in effect or corrects a minor or technical error.

Section 67A: inserted, on 31 December 2000, by section 26 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

67B Revoking duplicated approvals

(1) The Authority may, by notice, revoke an approval, a deemed approval, or a group standard for a substance if the Authority is satisfied that a corresponding

approval to the same or a substantially similar effect applies to the substance under—

(a) a group standard; or

(b) a Part 5 approval that is not a deemed approval.

(2) The Authority may, but is not required to, consult any person or organisation before revoking an approval, a deemed approval, or a group standard under this section.

(3) A notice under this section—

(a) must be published in the *Gazette*, if the notice revokes an approval or a deemed approval; or

(b) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), if the notice revokes a group standard.

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	The Ministry of Foreign Affairs and Trade considers that the secondary legislation may have international transparency obligations under the CPTPP. As a result the maker may also have to comply with s 75 of the Legislation Act 2019	LA19 ss 74(2), 75
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 67B: inserted, on 1 December 2017, by section 20 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 67B(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 67B(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Minister's call-in powers

68 Minister's power to call in applications with significant effects

(1) The Minister may direct that he or she will decide an application under this Act if the Minister considers that the decision on the application will have—

(a) significant cultural, economic, environmental, ethical, health, international, or spiritual effects; or

(b) significant effects in an area in which the Authority lacks sufficient knowledge or experience.

(1A) However, a direction under this section applies to an application that relates to any hazardous substances only if the application is one to which section 53(4) applies.

(2) The direction shall include the Minister's reasons for giving it.

(2A) Sections 114 and 115 of the Crown Entities Act 2004 do not apply to a direction under subsection (1).

(2B) This section applies despite section 113 of the Crown Entities Act 2004.

(3) Where the application is for approval to release from containment any new organism, the Minister, in the Minister's discretion, may include in the direction given under subsection (1) a statement specifying, in the circumstances of the particular case, what is or is not significant for the purposes of applying section 36 in respect of the application.

Section 68(1): substituted, on 30 October 2003, by section 39 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 68(1A): inserted, on 1 December 2017, by section 21 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 68(1A): amended, on 1 November 2022, by section 27 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 68(2A): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 68(2B): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

69 Notification of Minister's direction

(1) A direction by the Minister under section 68 is not effective in respect of any application unless the direction is notified in the *Gazette* not later than 30 working days after the date on which the Authority gives public notice of the application.

(2) The Minister shall forward a copy of the *Gazette* notice under subsection (1) to the Authority; and the Authority shall inquire into and report on the application concerned under sections 71 and 72.

Section 69(1): amended, on 30 October 2003, by section 40 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

70 Minister may appoint persons

Where the Minister directs that the Minister will decide any application in accordance with section 68, the Minister may appoint any person or persons with relevant knowledge or experience to sit with the Authority and exercise the power of a member of the Authority under sections 71 and 72.

71 Conduct of inquiry by Authority

(1) On receipt of a notice under section 69, the Authority shall inquire into any application for an approval to which a direction under section 68 applies.

(2) The Authority may require further information under section 52 in respect of any application to which such a direction applies.

(3) Sections 53 to 61 apply, with all necessary modifications, in respect of such an inquiry as if the conduct of the inquiry were the hearing of an application.

(4) The Authority—

(a) must hold an inquiry in public; and

(b) must consider—

(i) all matters under this Act relevant to the application; and

(ii) the Minister's reasons for giving the direction under section 68.

Section 71(4): substituted, on 30 October 2003, by section 41 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

72 Authority to report to Minister

(1) On completion of an inquiry under section 71, the Authority shall, as soon as practicable, submit to the Minister a written report (including recommendations and reasons) on the application referred to it by the Minister.

(2) After receiving a report from the Authority, the Minister shall ensure that—

(a) a copy of the report is sent to the applicant for any approval to which the report relates; and

(b) a copy of the report is sent to every person who made a submission.

73 Minister to decide application and notify decision

(1) When considering his or her decision on the application, the Minister shall have regard to—

(a) the report and recommendations of the Authority; and

(b) the reasons for calling in the application.

(2) Within 20 working days after receiving a report from the Authority, the Minister shall give his or her decision in writing, including reasons for the decision, give written notice of the decision to the applicant and every person who made a submission, and publicly notify the decision.

(3) Every decision by the Minister under this section may include such controls as may be imposed by the Authority under this Act, and shall have the same effect as a decision by the Authority.

Section 73(3): amended, on 30 October 2003, by section 42 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Part 5A
Restrictions on approving certain applications

[Repealed]

Part 5A: repealed, on 30 October 2003, by section 43(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

73A Interpretation

[Repealed]

Section 73A: repealed, on 30 October 2003, by section 43(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

73B Application

[Repealed]

Section 73B: repealed, on 30 October 2003, by section 43(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

73C Authority must not consider or approve certain applications during restricted period

[Repealed]

Section 73C: repealed, on 30 October 2003, by section 43(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

73D Additional information required for certain applications

[Repealed]

Section 73D: repealed, on 30 October 2003, by section 43(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

73E Additional matters Authority must consider for certain applications

[Repealed]

Section 73E: repealed, on 30 October 2003, by section 43(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

73F No compensation

[Repealed]

Section 73F: repealed, on 30 October 2003, by section 43(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

73G Expiry

[Repealed]

Section 73G: repealed, on 30 October 2003, by section 43(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Part 6
EPA controls

Part 6 heading: amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Hazard classification system

74 Establishment of hazard classification system

The Authority may from time to time, in accordance with section 76C, issue an EPA notice establishing a hazard classification system by—

(a) prescribing, for each intrinsic hazardous substance property, a number of degrees or types of hazard, which may be done by reference to an international system or by incorporation of material under section 141A:

(b) prescribing, for each intrinsic hazardous substance property, a degree of hazard below which any substance is not considered hazardous, which may be done by reference to an international system or by incorporation of material under section 141A:

(c) prescribing, for gases under pressure, a physical state when packaged:

(d) prescribing substances as substances that are not hazardous for the purpose of this Act.

Section 74: replaced, on 1 December 2017, by section 22 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

75 Authority may prescribe hazardous property controls

(1) The Authority may from time to time, in accordance with section 76C, issue an EPA notice prescribing any EPA controls for each hazard classification for the following purposes:

(a) for substances with explosive properties:

(i) to reduce the likelihood of an unintended explosion:

(ii) to control the adverse effects likely to be caused by an explosion:

(b) for substances with flammable properties:

(i) to reduce the likelihood of an unintended fire or explosion:

(ii) to control the adverse effects of any fire or explosion:

(c) for substances with oxidising properties:

(i) to reduce the likelihood of any unintended release of chemical energy as an explosion or fire:

(ii) to control the adverse effects of any release of chemical energy as an explosion or fire:

(d) for substances with corrosive properties:

(i) to reduce the likelihood of any unintended corrosion:

(ii) to control the adverse effects of any corrosion:

(e) for substances with toxic properties:

(i) to reduce the likelihood of any unintended exposure to any such substances:

(ii) to control the adverse effects of any exposure to such substances:

(f) for substances with ecotoxic properties—

(i) to reduce the likelihood of unintended exposure to any such substance:

(ii) to control the adverse effects of any exposure to such substances.

(g) *[Repealed]*

(2) *[Repealed]*

(3) Any notice made under subsection (1)(e) or (f) may—

(a) set, or provide for the setting of, exposure limits within a range of values, or according to a methodology:

(b) set, or provide for the setting of, exposure limits by adopting international values or international methodologies.

Section 75 heading: replaced, on 1 December 2017, by section 23(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 75(1): amended, on 1 December 2017, by section 23(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 75(1)(f): replaced, on 1 December 2017, by section 23(3) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 75(1)(g): repealed, on 1 December 2017, by section 23(3) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 75(2): repealed, on 1 December 2017, by section 23(4) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 75(3): added, on 22 December 2005, by section 17 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 75(3): amended, on 1 December 2017, by section 23(5) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

76 Authority may prescribe controls and requirements relating to hazardous substances

(1) The Authority may, from time to time, in accordance with section 76C, issue an EPA notice prescribing EPA controls that do 1 or more of the following:

(a) prescribe requirements for packages or containers for hazardous substances:

(b) prescribe requirements for the identification, labelling, and advertising of hazardous substances, and requirements for safety data sheets:

(c) prescribe requirements for disposal of hazardous substances:

(d) prescribe qualifications and other requirements that persons must hold or meet in order to obtain or handle—

(i) hazardous substances other than in a workplace:

(ii) hazardous substances with ecotoxic properties:

(e) prescribe requirements for content controls:

(f) prescribe EPA controls on any gases under pressure, whether or not the properties of any gas that is under pressure are intrinsically hazardous:

(g) prescribe EPA controls for any hazardous substance to avoid or mitigate any adverse effects on the physical or chemical nature of the environment:

(h) prescribe EPA controls to avoid or mitigate illness or injury to people or damage to the environment or chattels from any hazardous substance:

(i) prescribe EPA controls for by-products with hazardous properties, which result from the manufacture or use of any substance:

(j) prescribe technical restrictions and prohibitions on the sale of specified fireworks.

(2) Gases under pressure that are subject to EPA controls under subsection (1)(f) must be treated as hazardous substances for the purposes of Part 7, regardless of their properties.

(3) EPA controls may be prescribed under subsection (1)(i) only if the Authority is satisfied that the controls on any by-product with hazardous properties under this Act or any other Act are not sufficient to achieve the purposes of this Act.

(4) The Authority may, in any EPA notice,—

(a) prescribe EPA controls for any specified hazardous substance or hazardous substances of a specified class:

(b) prescribe or provide for EPA controls by reference to controls prescribed under any other Act.

Section 76: replaced, on 1 December 2017, by section 24 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

76A Authority may prescribe other matters relating to hazardous substances

The Authority may, in accordance with section 76C, issue an EPA notice that does 1 or more of the following:

(a) prescribes the method of estimating the quantity of any substance to be imported or manufactured:

(b) prescribes countries for the purposes of sections 28 and 31:

(c) prescribes information to be provided to the Authority with any application for approval of any hazardous substance:

(d) prescribes, whether by reference to any specified classes of importers or manufacturers or on some other basis,—

(i) information that importers or manufacturers must provide to the Authority; and

(ii) related requirements, including the making available of, or the giving of, any notice or information about specified activities, matters, or things to the Authority or to an enforcement officer:

(e) prescribes forms for the purposes of this Act that relate to any hazardous substances:

(f) prescribes documentation to be issued in respect of any hazardous substance before importation into New Zealand:

(g) prescribes qualifications for enforcement officers appointed under section 100:

(h) prescribes who is an importer or a manufacturer, which may be done by reference to any classes or otherwise:

(i) provides for any matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

Section 76A: inserted, on 5 September 2015 (paragraphs (a), (b), (c), (e), (i) not yet in force), by section 24 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 76A(a), (b), (c), (e), (i): brought into force, on 1 December 2017, by clause 2 of the Hazardous Substances and New Organisms Amendment Act 2015 Commencement Order 2017 (LI 2017/232).

76B Further provisions relating to EPA notices

(1) An EPA notice issued under section 74, 75, 76, or 76A may—

(a) be of general or limited application:

(b) differ according to differences in time, place, or circumstance, or any other basis:

(c) impose prohibitions:

(d) impose obligations and restrictions on persons:

(e) apply differently to people of a differing age or health status, and may apply only to people of a particular age or health status.

(2) An EPA notice made under subsection (1) is not invalid merely because it confers a discretion on, or allows a matter to be determined or approved by, any person.

(3) The Authority may, in any EPA notice, include transitional and savings provisions for the purpose of giving effect to any matters arising from the notice that are necessary because of the coming into effect of the notice.

Section 76B: inserted, on 5 September 2015, by section 24 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

76C Procedure for issuing EPA notices

(1) Before issuing an EPA notice, the Authority must—

(a) publicly notify its intention to issue the notice; and

(b) give interested persons a reasonable time, which must be specified in the notification published under paragraph (a), to make submissions on the proposal; and

(c) consult any persons, representative groups within the hazardous substances industry or elsewhere, government departments, WorkSafe, and Crown entities that the Authority considers appropriate in each case.

(2) Before issuing an EPA notice, the Authority must have regard, and give any weight that it considers appropriate in each case, to the following:

(a) the costs and benefits of implementing measures for which the notice is being proposed:

(b) the best international practices and standards for the safe management of hazardous substances:

(c) any other matters that the EPA considers appropriate in the circumstances.

(3) An EPA notice must—

(a) be signed by the chairperson of the Authority; and

(b) set out fully the requirements of the notice, except where certain information is incorporated in the notice by reference; and

(c) include a statement of the objective of the notice; and

(d) *[Repealed]*

(4) *[Repealed]*

(5) The Authority may amend or revoke any EPA notice and the amendment or revocation is subject to subsections (1) to (3), except as provided by subsection (6).

(6) The Authority may, on its own initiative, amend an EPA notice without complying with subsections (1) and (2), if it considers that the amendment is minor in effect or corrects a minor or technical error.

(7) A failure to comply with subsections (1), (3), and (4) does not affect the validity of any EPA notice made under this Act.

Section 76C: inserted, on 5 September 2015, by section 24 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 76C(3)(d): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 76C(4): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

76D Application of Legislation Act 2019 to EPA notices

(1) An EPA notice, or an amendment to or revocation of an EPA notice, is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(2) A statement setting out the extent of the consultation under section 76C that took place before the notice was made must be published with it.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (1)		
Publication	The maker must: • publish it in the *Gazette* • publicly notify it with a statement stating the extent of consultation that took place before the notice was made (see section 2 definition of **public notice**). • comply with subsection (2)	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 76D: replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

76E Authority may recognise overseas bodies as international regulators

(1) The Authority may, by notice in the *Gazette*, recognise 1 or more overseas bodies as international regulators for the purposes of sections 28A and 63D.

(2) Before recognising an overseas body, the Authority must—

(a) publicly notify its intention to issue the notice; and

(b) give interested persons a reasonable time, which must be specified in the notification published under paragraph (a), to make submissions on the proposal; and

(c) consult any persons, representative groups within the hazardous substances industry or elsewhere, government departments, WorkSafe, and Crown entities whom the Authority considers appropriate in each case.

(3) The Authority must not recognise an overseas body unless the Authority has considered whether—

(a) the body operates in a manner comparable to the Authority in regulating hazardous substances; and

(b) the legislative regime regulating hazardous substances in which the body operates is comparable to this Act; and

(c) the information from the body is readily accessible by the Authority.

(4) The Authority may amend a notice made under this section—

(a) to recognise, or revoke recognition of, 1 or more overseas bodies as international regulators—

(i) in accordance with subsections (1) and (2); and

(ii) having considered the criteria in subsection (3)(a) to (c); and

(b) without complying with subsections (2) and (3), if it considers that the amendment is minor in effect or corrects a minor or technical error.

Section 76E: inserted, on 1 November 2022, by section 11 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

77 EPA controls on hazardous substances

(1) Where the Authority has approved the importation or manufacture of any substance under section 28A or section 29, the Authority shall give that substance 1 or more hazard classifications in accordance with the intrinsic properties of that substance and the degree or type of hazard of that substance, if applicable.

(2) The controls prescribed by any regulations, and the EPA controls prescribed by any EPA notice, for each hazard classification attach to the substance, but may be varied,—

(a) from time to time, by amendments to the regulations or notice prescribing the controls for the relevant hazard classification:

(b) at the time the substance is approved, in accordance with subsections (3), (4), and (5).

(2A) Nothing in any regulations or EPA notice referred to in subsection (2)(a) affects any variations made by the Authority under subsections (3) to (5) before the commencement of the regulations or notice, unless the Authority determines otherwise.

(3) The Authority may substitute or add any controls prescribed for any classification,—

(a) where the adverse effects identified for a substance are greater than the adverse effects which would usually be associated with substances given that hazard classification; or

(b) where another substance with similar or improved beneficial effects and reduced adverse effects has become available and the availability of the substance should be restricted by the imposition of additional controls; or

(c) where the scientific and technical uncertainty in the available information is such that the adverse effects cannot be accurately identified.

(4) The Authority may substitute or delete any or all controls prescribed for any classification,—

(a) where the adverse effects identified for a substance are less than the adverse effects which would usually be associated with substances given that hazard classification; or

(b) where the benefits of any substance are such that the controls should be varied to retain the benefits and the variation would, in the opinion of the Authority, not significantly increase the adverse effect.

(5) Where any substance is given 2 or more hazard classifications, the Authority shall combine the prescribed controls and impose such of those controls as will control all of the adverse effects identified for the substance.

(6) Where any controls are varied or deleted in accordance with subsection (3) or subsection (4), the Authority shall ensure that the controls remain consistent over the whole life cycle of the substance concerned.

(7) Any restrictions and prohibitions on the sale of fireworks prescribed under section 76(1)(j) or 140(1)(r) or (s) are in addition to any EPA controls placed on fireworks under this section to control their explosive properties.

(8) The powers under sections 77A and 77B are in addition to the powers conferred by this section.

Section 77 heading: amended, on 1 December 2017, by section 25(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 77(1): amended, on 1 December 2017, by section 25(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 77(1): amended, on 2 July 2001, by section 27 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 77(2): replaced, on 1 December 2017, by section 25(3) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 77(2A): replaced, on 1 December 2017, by section 25(3) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 77(7): replaced, on 1 December 2017, by section 25(4) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 77(8): added, on 22 December 2005, by section 18 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

77A Authority's power to impose EPA controls and vary specified controls

(1) The Authority may, at the time it approves a substance for any purpose under this Act, impose as controls under this section any obligations and restrictions that the Authority thinks fit for the purpose of setting EPA controls.

(2) Without limiting anything in subsection (1), the Authority may, in approving a substance, specify as an EPA control under this section—

(a) an obligation to obtain a permission under section 95A for general or particular use of the substance; or

(b) a restriction on the use of a substance.

(3) Obligations and restrictions imposed under this section are EPA controls for the purposes of this Act, and such controls may—

(a) be additional to other specified controls; or

(b) vary other specified controls; or

(c) be in substitution for other specified controls; or

(d) combine other specified controls; or

(e) delete other specified controls.

(4) Before imposing a control under this section, the Authority must be satisfied that, either—

(a) against any other specified controls that apply to the substance,—

(i) the proposed control is more effective in terms of its effect on the management, use, and risks of the substance; or

(ii) the proposed control is more cost-effective in terms of its effect on the management, use, and risks of the substance; or

(iii) the proposed control is more likely to achieve its purpose; or

(b) in the case of a control that is a restriction on the use of a hazardous substance, the positive effects of the substance when restricted to that use outweigh the adverse effects.

(5) In this section, **other specified controls** means controls imposed by or under any other section of this Act, and includes controls imposed by regulations made under this Act or EPA controls made under an EPA notice.

Section 77A: inserted, on 24 March 2004, by section 5 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 77A heading: amended, on 1 December 2017, by section 26(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 77A(1): amended, on 1 December 2017, by section 26(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 77A(2): replaced, on 1 December 2017, by section 26(3) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 77A(3): amended, on 1 December 2017, by section 26(4) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 77A(4): replaced, on 1 December 2017, by section 26(5) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 77A(5): replaced, on 1 December 2017, by section 26(6) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

77B Exposure limits for substances with toxic or ecotoxic properties

(1) Despite anything to the contrary in this Act, the Authority may, at the time, or at any time after, it approves a substance with toxic or ecotoxic properties for any purpose under this Act,—

(a) set exposure limits for the substance or any element or compound making up the substance that the Authority thinks fit; or

(b) provide for the setting of exposure limits for the substance or any element or compound making up the substance.

(2) Exposure limits set under subsection (1) may comprise 1 or more of the following:

(a) environmental exposure limits:

(b) tolerable exposure limits:

(c) *[Repealed]*

(3) Without limiting anything in subsection (1), the Authority may—

(a) provide that all or any of the exposure limits set by it are for guidance only:

(b) set, or provide for the setting of, exposure limits within a range of values or according to a methodology:

(c) set, or provide for the setting of, exposure limits by adopting international values or international methodologies.

(4) Exposure limits imposed under this section are EPA controls for the purposes of this Act, and such exposure limits may—

(a) be additional to other specified exposure limits; or

(b) vary other specified exposure limits; or

(c) substitute other specified exposure limits; or

(d) combine other specified exposure limits; or

(e) delete other specified exposure limits.

(5) Before setting exposure limits under this section, the Authority must—

(a) consider the best international practices and standards for the safe management of substances with toxic or ecotoxic properties; and

(b) be satisfied that, against other specified exposure limits that apply to the substance,—

(i) the proposed exposure limit is more effective in terms of its effect on the management, use, and risks of the substance; or

(ii) the proposed exposure limit is more cost-effective in terms of its effect on the management, use, and risks of the substance; or

(iii) the proposed exposure limit is more likely to achieve its purpose; and

(c) do everything reasonably practicable on its part to advise all people who in its opinion may be affected by the proposed exposure limit; and

(d) give those people a reasonable opportunity to make submissions and comments to the Authority on the proposed exposure limit; and

(e) consider all submissions and comments received.

(6) In this section,—

environmental exposure limit means the limit on the concentration of a substance (or any element or compound making up the substance) with ecotoxic properties in an environmental medium as set in accordance with this section or EPA notices

tolerable exposure limit means the limit on the concentration of a substance (or any element or compound making up the substance) with toxic properties in an environmental medium as set in accordance with this section or EPA notices

Section 77B: inserted, on 22 December 2005, by section 19 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 77B(2)(c): repealed, on 1 December 2017, by section 27(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 77B(4): amended, on 1 December 2017, by section 27(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 77B(6) **environmental exposure limit**: amended, on 1 December 2017, by section 27(3) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 77B(6) **tolerable exposure limit**: amended, on 1 December 2017, by section 27(4) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 77B(6) **workplace exposure standard**: repealed, on 1 December 2017, by section 27(5) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

78 Codes of practice

(1) The Authority may from time to time issue, amend, approve, or revoke any code of practice for hazardous substances for the purpose of implementing any requirement included in EPA controls or in regulations or an EPA notice in force under this Act.

(2) Every code of practice, and every amendment or revocation of a code of practice for hazardous substances, shall show the date on which it was issued.

(3) The Authority may issue, as a code of practice for hazardous substances, any code of practice approved under any other Act.

(4) The Authority may approve, as a code of practice for hazardous substances, any document prepared by any other person if that document is considered by the Authority as a suitable document for use as a code of practice for hazardous substances.

(5) A code of practice issued or approved under this Act that is also a code of practice approved under any other Act or a document prepared by another person, consists of the contents of that code or document as that code or document existed on the date that it was approved or issued as a code of practice under this Act.

(6) The Authority must not, without the written consent of the relevant Minister,—

(a) adopt with modification any documents previously approved by a Minister of the Crown; or

(b) approve any amendment of any part of a code of practice that comprises a document approved by a Minister of the Crown and later adopted by the Authority.

Section 78(1): substituted, on 2 July 2001, by section 28 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 78(1): amended, on 1 December 2017, by section 28(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 78(1): amended, on 1 December 2017, by section 28(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 78(5): substituted, on 7 May 1999, by section 7 of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 78(6): replaced, on 1 December 2017, by section 28(3) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

79 Codes may be approved by Authority

(1) A code of practice for hazardous substances, an amendment to such a code, and a revocation of such a code, shall not have any force or effect until it has been approved by the Authority and published under the Legislation Act 2019.

(2) Subject to subsection (3), the Authority shall not approve any code, or any amendment or revocation of a code, unless—

(a) not less than 20 working days has elapsed since the publication in the *Gazette* of a notice of the intention to apply for approval; and

(b) the Authority has consulted such persons as will be affected by the code or amendment or revocation or who have advised the Authority in writing that they wish to be consulted, or representatives of those persons, and they have had the opportunity to consider its possible effects and to comment on those effects to the Authority; and

(c) the Authority has considered any comments made to it concerning those effects.

(3) The Authority may approve a code of practice for hazardous substances or any amendment or revocation of that code without complying with the requirements of subsection (2)(a) or (b), if it is satisfied that sufficient consultation has already taken place in respect of the matters in the code, or amendment, or revocation.

(4) *[Repealed]*

(5) A code of practice, or an amendment to or revocation of a code of practice, approved under this section—

(a) must show the date of the approval; and

(b) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(6) That Act applies as if—

(a) the Authority were the maker of the code of practice, amendment, or revocation; and

(b) the code of practice, amendment, or revocation were made by the Authority approving it under this section.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (5)

Publication	The maker must: • notify it in the *Gazette* with a statement of where it is available for inspection and purchase • make it available for inspection free of charge • make it available for sale at a reasonable price	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 79(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 79(2)(b): amended, on 2 July 2001, by section 29(1) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 79(4): repealed, on 2 July 2001, by section 29(2) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 79(5): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 79(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

80 Availability of codes

[Repealed]

Section 80: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

81 Proof of code

Without affecting any other method of proof, the production in any proceedings of a copy of any code of practice for hazardous substances, or amendment or revocation of such a code of practice, purporting to have been approved by the Authority, in the absence of evidence to the contrary, shall be sufficient proof that it has been issued in accordance with this Act.

Test certifiers

82 Certificates

Regulations made under this Act, EPA notices, approvals granted by the Authority, and requirements imposed in accordance with Part 3 of Schedule 3 may require a person to obtain a certificate—

(a) from a certifier authorised under section 211(1)(k) of the Health and Safety at Work Act 2015 that certifies that any specified requirement has been met; or

(b) from the Authority under this Act that certifies that any specified requirement has been met; or

(c) under any other relevant enactment that certifies that any specified requirement has been met.

Section 82: replaced, on 1 December 2017, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

82A Register of test certificates

[Repealed]

Section 82A: repealed, on 1 December 2017, by section 30 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

82B Delegation by approved person

[Repealed]

Section 82B: repealed, on 1 December 2017, by section 30 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

82C Revocation of certificates

(1) The Authority may, at any time and by notice in writing to the person to whom the certificate was issued (the **certificate holder**), revoke a certificate if the Authority is satisfied that the certificate holder—

(a) obtained the certificate by fraud, misrepresentation, or concealment of facts; or

(b) has been negligent as a certificate holder; or

(c) is incompetent to act as a certificate holder; or

(d) has not met, or continued to meet, any requirement for which the certificate was issued.

(2) The Authority may not revoke a certificate under subsection (1) unless the Authority—

(a) has notified the certificate holder in writing of its intention to investigate whether to revoke the certificate; and

(b) has given the certificate holder reasons in writing for the Authority's investigation; and

(c) has given the certificate holder a reasonable opportunity to make submissions to the Authority in respect of the investigation; and

(d) has considered all submissions and any other information received; and

(e) is, as a result of the investigation, satisfied that there are grounds for revoking the certificate under subsection (1).

(3) The Authority may seek, receive, or take into account any other information or evidence that the Authority considers relevant for the purposes of this section.

(4) If the Authority proposes to take into account any information that is or may be prejudicial to the certificate holder, the Authority must, subject to subsection (5), disclose that information to the certificate holder and give him or her a reasonable opportunity to refute or comment on the information.

(5) The Authority is not required to disclose any information under subsection (4) that would be likely to endanger the safety of any person.

(6) If the Authority determines not to disclose any information in reliance on subsection (5), the Authority must inform the certificate holder of the fact of non-disclosure, and the following provisions apply:

(a) in the case of non-disclosure to an individual of information about the individual,—

(i) the Authority must inform the individual that he or she may, under the Privacy Act 2020, complain to the Privacy Commissioner about that non-disclosure; and

(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the

information had been withheld under section 49(1)(a)(i) of that Act; and

(b) in any other case,—

(i) the Authority must inform the person that the person may seek a review by an Ombudsman of that non-disclosure under the Official Information Act 1982; and

(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld under section 6(d) of that Act.

(7) On completion of the Authority's investigation, the Authority must notify the certificate holder in writing of—

(a) the Authority's decision; and

(b) the certificate holder's right of appeal against that decision.

(8) A certificate that is revoked under this section is deemed to have expired on the date on which the certificate was revoked.

(9) *[Repealed]*

Section 82C: inserted, on 22 December 2005, by section 21 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 82C heading: amended, on 1 December 2017, by section 31(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 82C heading: amended, on 20 April 2010, by section 22(1) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 82C(1): amended, on 1 December 2017, by section 31(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 82C(1): amended, on 20 April 2010, by section 22(2) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 82C(1)(a): amended, on 1 December 2017, by section 31(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 82C(1)(c): amended, on 20 April 2010, by section 22(3) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 82C(1)(d): added, on 20 April 2010, by section 22(3) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 82C(1)(d): amended, on 1 December 2017, by section 31(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 82C(2): amended, on 1 December 2017, by section 31(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 82C(2)(a): amended, on 1 December 2017, by section 31(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 82C(2)(e): amended, on 1 December 2017, by section 31(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 82C(6)(a)(i): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

Section 82C(6)(a)(ii): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

Section 82C(8): amended, on 1 December 2017, by section 31(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 82C(9): repealed, on 20 April 2010, by section 22(4) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

83 Applications for approval as test certifier

[Repealed]

Section 83: repealed, on 1 December 2017, by section 30 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

84 Processing applications for approval as test certifier

[Repealed]

Section 84: repealed, on 1 December 2017, by section 30 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

85 Register of test certifiers

[Repealed]

Section 85: repealed, on 1 December 2017, by section 30 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

86 Complaints to Authority

[Repealed]

Section 86: repealed, on 1 December 2017, by section 30 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Transferable permits

87 Establishment of transferable permit scheme

(1) Subject to section 141, the Governor-General may from time to time, by Order in Council, make regulations establishing a transferable permit scheme for any hazardous substance or group of hazardous substances.

(2) Regulations made under subsection (1) may include the following matters:

(a) the amount of substance available for importation or manufacture in any specified period of time or a method for determining that amount:

(b) the method of allocating, reallocating, reducing, increasing, or cancelling any transferable permits:

(c) the period for which any transferable permit will be valid:

(d) any limitations upon the transfer of permits:

(e) any scheme monitoring requirements, including any reporting requirements imposed on holders of permits.

(3) Any method specified in accordance with subsection (2)(b) shall first allocate transferable permits to persons importing or manufacturing the substance immediately prior to the establishment of the transferable permit scheme.

(4) Any method specified in accordance with subsection (2)(a) may provide for the amount of a substance to be reduced or increased over a specified period of time.

(5) Where any regulations made under this section specify a method for reducing the amount of substance available for importation or manufacture, no compensation shall be payable in respect of any such reduction.

(6) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 87(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

88 Authority to recommend establishment

The Authority may recommend to the Minister that a transferable permit scheme be established, amended, or revoked for any hazardous substances or group of hazardous substances, in accordance with section 87, where the Authority is satisfied—

(a) that a reduction in the likely occurrence of adverse effects similar to that achieved by the controls attached to any substance in accordance with sections 77, 77A, and 77B could be achieved by—

(i) any transferable permit scheme; or

(ii) any combination of a transferable permit scheme and EPA controls prescribed in accordance with sections 75 and 76; and

(b) that such a scheme will be cost effective to implement, having regard to the costs associated with the transferable permit scheme, including the costs of monitoring and the costs of alternative methods of controls, and the benefits provided from the ability to transfer permits.

Section 88(a): amended, on 22 December 2005, by section 22 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 88(a)(ii): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

89 Transferable permit scheme and variation of controls

(1) Where any transferable permit scheme is established for any hazardous substance in accordance with section 87, the Authority may substitute or delete any EPA controls attached to that substance if the combination of controls and transferable permit scheme reduce the likely adverse effects of that substance

to a level similar to that achieved by the controls attached to that substance in accordance with sections 77, 77A, and 77B.

(2) Any substitution or deletion of controls on any substance in accordance with subsection (1) shall remain in force so long as the transferable permit scheme in place at the time of the substitution or deletion of controls remains the same.

Section 89(1): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 89(1): amended, on 22 December 2005, by section 23 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

90 Transfer of permits

(1) Any person who has been granted a transferable permit in accordance with any scheme established under section 87 may transfer that permit or any part of it to any other person.

(2) The transferor, within 20 working days after making any such transfer, shall notify the Authority in writing of the transfer, the amount transferred, and the name and address of the transferee, and return the permit for reissuing.

(3) No transfer shall be valid unless the Authority is notified in accordance with subsection (2).

91 Contents of transferable permits

Every transferable permit shall specify—

(a) the substance in respect of which it is issued; and

(b) the dates of issue and expiry of the permit; and

(c) the amount of the substance which the permit holder is permitted to import or manufacture under the permit; and

(d) any other EPA controls on the importation or manufacture of substances as the Authority thinks fit.

Section 91(d): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

92 Modification of permits

The Authority may modify any permit to correct any clerical error or omission.

93 Registration of scheme

(1) Before commencing any transferable permit scheme, the Authority shall establish a register for each scheme.

(2) The Authority shall include in the register—

(a) the details of every permit issued; and

(b) the details of every transfer of the whole or any part of a transferable permit.

(3) The register shall be available for inspection upon request to any person.

(4) An entry in the register, in the absence of evidence to the contrary, shall be sufficient proof that the person named in the register is the holder of the transferable permit to which the entry relates.

94 Transferable permit not to be mortgaged

Any contract or other instrument purporting to create any interest in any transferable permit for the purpose of securing the payment of a debt or other pecuniary obligation, or for the performance of any other obligation, is void.

95 Prohibition on import or manufacture until transferable permit obtained

Where a transferable permit scheme exists for a substance,—

(a) no person shall manufacture or import that hazardous substance unless any relevant transferable permit has been obtained for the amount of substance being manufactured or imported; and

(b) any Customs officer may permit the importation of any hazardous substance upon production by the importer of a relevant transferable permit for the amount of substance being imported.

Permissions

Heading: inserted, on 24 March 2004, by section 6 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Heading: amended, on 1 December 2017, by section 32 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

95A Permissions

(1) This section applies if the Authority approves a substance subject to an obligation referred to in section 77A(2)(a) (namely that, before using the substance, a person must obtain a prior permission under this section for the general or particular use of the substance).

(2) An application for a permission under this section must be made in a form approved by the Authority, and must be accompanied by the appropriate charge (if any) fixed under section 21.

(3) In considering an application, the Authority must consider—

(a) the adverse effects involved in the use or uses of the substance to which the application relates; and

(b) the conditions (if any) that it thinks should be imposed as part of the permission.

(4) The Authority may grant a permission subject to any conditions it may specify in the permission that are consistent with the approval of the substance.

(5) The holder of a permission granted under this section is authorised to use the substance specified in the permission in accordance with the approval of the substance and the holder's permission.

(6) A permission granted under this section must be in writing and in a form approved by the Authority.

(7) The Authority may, at any time by notice in writing to the holder of a permission granted under this section,—

(a) add or delete any conditions, or otherwise vary any conditions:

(b) revoke a permission granted to the holder under this section.

Section 95A: inserted, on 24 March 2004, by section 6 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

95B Licences

[Repealed]

Section 95B: repealed, on 1 December 2017, by section 33 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Environmental user charges

96 Report on environmental user charges

(1) Where the Authority considers that a reduction in the likely occurrence of adverse effects similar to that achieved by the EPA controls attached to any substance in accordance with sections 77, 77A, and 77B could be achieved by—

(a) any environmental user charge; or

(b) any combination of an environmental user charge and EPA controls prescribed in accordance with section 75 or section 76,—

the Authority may report to the Minister on such a charge or any combination of such controls and an environmental user charge.

(2) Before preparing any report in accordance with subsection (1), the Authority shall satisfy itself that any environmental user charge would be cost effective to implement having regard to the costs associated with the environmental user charge, including the costs of monitoring and the costs of alternative methods of control.

(3) Any report to the Minister made in accordance with subsection (1) may include any other matters relevant to any environmental user charge, including a report on—

(a) the time of commencement of any environmental user charge; and

(b) the duration of any environmental user charge; and

(c) any matters relevant to the implementation of environmental user charges; and

(d) use of the revenue from environmental user charges; and

(e) any procedure for adjusting or removing any EPA controls already imposed upon a substance at the time of imposition of the environmental user charge; and

(f) any procedure for adjusting or removing any combination of EPA controls and environmental user charge or an environmental user charge, after a reassessment of the substance under section 62.

Section 96(1): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 96(1): amended, on 22 December 2005, by section 24 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 96(1)(b): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 96(3)(e): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 96(3)(f): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Part 6A
Group standards

Part 6A: inserted, on 22 December 2005, by section 25 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

96A Purpose of Part

The purpose of this Part is to enable the Authority to issue, amend, and revoke standards (known as group standards) for groups of hazardous substances (whether these are subject to Part 5 or not) that have a similar nature, are of a similar type, or have similar circumstances of use, so that the risks of the grouped hazardous substances can be effectively managed by 1 set of conditions.

Section 96A: inserted, on 22 December 2005, by section 25 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

96B Group standards

(1) The Authority may issue group standards that—

(a) identify the group of hazardous substances or products (described in subsection (2)) concerned; and

(b) impose as conditions that apply to the identified group of hazardous substances or products any obligations and restrictions that the Authority thinks fit for the purpose of setting EPA controls.

(2) A group standard may apply to 1 or more of the following hazardous substances or products:

(a) a hazardous substance to which Part 5 applies:

(b) a hazardous substance to which Parts 11 to 15 apply:

(c) a hazardous substance to which a notice or regulation under Part 11 applies, or a hazardous substance that has been approved under Part 5:

(d) a product (including, but not limited to, a manufactured article, a waste product, or a manufacturing by-product) that is, contains, incorporates, or includes a hazardous substance.

(3) The Authority may amend or revoke group standards that are issued under subsection (1).

(4) The Authority may issue, amend, or revoke group standards under this section—

(a) on its own initiative; or

(b) on application by any person.

(5) The following instruments made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):

(a) a group standard:

(b) an amendment to or a revocation of a group standard.

(6) *[Repealed]*

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must: • publish it in the *Gazette* • make it available for inspection free of charge • make it available for sale at a reasonable price • publish it in a publication relevant to affected persons • give public notice of where it can be inspected or purchased (see section 2 definition of **public notice**)	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	The Ministry of Foreign Affairs and Trade considers that the secondary legislation may have international transparency obligations under the CPTPP. As a result the maker may also have to comply with s 75 of the Legislation Act 2019	LA19 ss 74(2), 75
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 96B: inserted, on 22 December 2005, by section 25 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 96B(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 96B(1)(b): replaced, on 1 December 2017, by section 34 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 96B(3): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 96B(5): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 96B(6): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

96C When group standards may be issued or amended

(1) Before issuing or amending group standards under section 96B, the Authority must,—

(a) in the case of any hazardous substance to which section 96B(2)(a) applies, be satisfied that issuing or amending (as the case may be) group standards is a more efficient and effective way of managing the risks of all the hazardous substances in the identified group than the approval process under Part 5; and

(b) in the case of any hazardous substance to which section 96B(2)(b) applies, be satisfied that issuing or amending (as the case may be) group standards is a more efficient and effective way of managing the risks of all the hazardous substances in the identified group; and

(c) in the case of any hazardous substance to which section 96B(2)(c) applies, be satisfied that issuing or amending (as the case may be) group standards is a more efficient and effective way of managing the risks of all the hazardous substances in the identified group; and

(d) in the case of any product to which section 96B(2)(d) applies, be satisfied that—

(i) the benefits associated with a reduction of environmental and health risks outweigh the economic costs associated with complying with the group standard; and

(ii) the issuing or amending (as the case may be) of group standards is the most efficient and effective way of managing the risks of all the products in the identified group, having considered matters including alternative methods of managing those risks; and

(iii) the group standard is only applied to the extent that it is reasonably necessary to manage the risks of the products; and

(e) where a group standard applies—

(i) to 1 hazardous substance or product (described in section 96B(2)), be satisfied that the risks of the hazardous substance or product can be effectively managed by one set of conditions; or

(ii) to more than 1 hazardous substance or product (described in section 96B(2)), be satisfied that all the hazardous substances or products in the identified group have a similar nature, are of a similar type, or have similar circumstances of use, such that the risks of the group of hazardous substances or products can be effectively managed by 1 set of conditions; and

(f) consider the best international practices and standards for the safe management of hazardous substances and products (described in section 96B(2)); and

(g) consider the types of EPA controls appropriate for the group in accordance with sections 77, 77A, and 77B; and

(h) comply with the requirements of section 53(1A) (which relates to public notification).

(2) Where the Authority proposes to issue, amend, or revoke group standards on its own initiative, sections 53 to 61 apply, with all necessary modifications, for the purposes of this section, as if the proposal were an application.

(3) However, the Authority may, on its own initiative, amend a group standard under section 96B without complying with subsections (1) and (2) of this section or section 53(1A), if it considers that the amendment is minor in effect or corrects a minor or technical error.

Section 96C: inserted, on 22 December 2005, by section 25 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 96C(1)(g): amended, on 5 September 2015, by section 35(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 96C(1)(h): replaced, on 5 September 2015, by section 35(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 96C(3): added, on 20 April 2010, by section 23 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 96C(3): amended, on 5 September 2015, by section 35(3) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

96D Revocation of group standards

(1) Before revoking group standards under section 96B, the Authority must publicly notify its proposal to revoke group standards in accordance with section 53(1A).

(2) Sections 54 to 61 apply, with all necessary modifications, for the purposes of this section.

Section 96D: inserted, on 22 December 2005, by section 25 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 96D(1): amended, on 5 September 2015, by section 36 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

96E Effect of group standards

(1) If a group standard applies to a hazardous substance or product, the substance or product must comply with the group standard.

(2) However, in the case of a hazardous substance, if the hazardous substance also has an approval given under this Act, the substance may instead comply with the approval.

(3) A hazardous substance to which section 96B(2)(a) applies is deemed to have been approved by the Authority under section 29.

Section 96E: inserted, on 22 December 2005, by section 25 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

96F Hazardous substances in group standards if Parts 11 to 15 apply

If Parts 11 to 15 apply to a hazardous substance and a group standard is made under section 96B that applies to the substance,—

(a) Parts 11 to 15 do not apply to that hazardous substance on and from the date on which the group standard comes into force; and

(b) the hazardous substance is deemed to have been approved by the Authority on the date that the group standard comes into force.

Section 96F: inserted, on 22 December 2005, by section 25 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Part 7
Inspection, enforcement, and ancillary powers

Inspection

97 Enforcement of Act

(1) The following persons shall ensure the provisions of this Act (including any controls imposed on approvals granted under this Act) are enforced in the following situations:

(a) WorkSafe must ensure that the provisions of this Act in respect of disposal and ecotoxic controls, and equivalent conditions in group standards issued under section 96B that relate to hazardous substances, are enforced in any workplace:

(b) WorkSafe must ensure that the provisions of this Act are enforced in, on, at, or around any distribution system, gas installation, or gas appliance:

(c) the New Zealand Transport Agency or the Director of Land Transport may enforce the provisions of this Act in or on any motor vehicle, on any road, in or on any rail vehicle, or on any railway line:

(d) the Commissioner of Police (after consultation with the New Zealand Transport Agency or the Director of Land Transport) shall ensure that the provisions of this Act are enforced in or on any motor vehicle, on any road, in or on any rail vehicle, or on any railway line:

(da) in relation to the retail sale of fireworks, the Commissioner of Police must ensure that any restrictions and prohibitions imposed under this Act are enforced:

(e) the Director of the Civil Aviation Authority shall ensure that the provisions of this Act are enforced in or on any aircraft and that the provisions of this Act relating to the discharge of hazardous substances from an aircraft are enforced:

(f) the Director of Maritime New Zealand shall ensure that the provisions of this Act are enforced in or on any ship:

(g) the chief executive of the Ministry of Health shall ensure that the provisions of this Act are enforced where it is necessary to protect public health:

(h) the chief executive of any territorial authority—

(i) shall ensure that the provisions of this Act are enforced in or on any premises situated in the district of the territorial authority other than those premises specified in paragraphs (a) to (g):

(ii) may enforce the provisions of this Act in or on those premises specified in paragraphs (a) to (g) where the territorial authority is in or on those premises for the purposes of enforcing the provisions of the Resource Management Act 1991:

(iii) shall ensure that the provisions of this Act are enforced in or on those premises specified in paragraphs (a) to (g), where the function, power, or duty is transferred to the territorial authority in accordance with section 98.

(iv) *[Repealed]*

(2) The chief executive of a regional council may—

(a) enforce the provisions of this Act in or on those premises specified in subsection (1)(a) to (g) if the regional council is in or on those premises for the purposes of enforcing the provisions of the Resource Management Act 1991:

(b) enforce the provisions of this Act in or on those premises specified in subsection (1)(a) to (g) if the function, power, or duty is transferred to the regional council in accordance with section 98.

(3) The Authority must ensure that the following matters are enforced:

(a) provisions of this Act in respect of classification controls and content controls, and equivalent conditions in group standards issued under section 96B that relate to hazardous substances:

(b) the requirement for a hazardous substance to have an approval before being imported or manufactured:

(c) prohibitions relating to persistent organic pollutants and hazardous substances prohibited by regulations:

(d) requirements imposed under any EPA notice made under section 76A.

(4) The Authority must ensure the provisions of this Act in respect of any regulations, EPA controls, and equivalent conditions in group standards issued under section 96B that relate to hazardous substances are enforced in any workplace to the extent that responsibility for enforcement is not provided for in subsection (1)(a) to (g).

Section 97(1): amended, on 30 October 2003, by section 44 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 97(1)(a): replaced, on 1 December 2017, by section 37(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 97(1)(b): replaced, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 97(1)(c): amended, on 1 April 2021, by section 175(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 97(1)(c): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 97(1)(c): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 97(1)(d): amended, on 1 April 2021, by section 175(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 97(1)(d): amended, on 1 August 2008, by section 50(1) of the Land Transport Management Amendment Act 2008 (2008 No 47).

Section 97(1)(d): amended, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 97(1)(da): inserted, on 1 December 2017, by section 37(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 97(1)(e): amended, on 1 December 2017, by section 37(3) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 97(1)(e): amended, on 20 April 2010, by section 24 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 97(1)(f): amended, on 1 July 2011, by section 12 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

Section 97(1)(h)(ii): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 97(1)(h)(iii): amended, on 22 December 2005, by section 27(1) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 97(1)(h)(iv): repealed, on 1 July 2011, by section 12 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

Section 97(2): added, on 22 December 2005, by section 27(2) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 97(2)(a): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 97(3): inserted, on 1 December 2017, by section 37(4) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 97(4): inserted, on 1 December 2017, by section 37(4) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

97A Enforcement of Act in respect of new organisms

(1) The enforcement agency must ensure that the provisions of this Act are enforced in respect of new organisms.

(2) For the purpose of complying with subsection (1), the enforcement agency may appoint enforcement officers in accordance with this Act who may exercise

also the powers of inspectors under the Biosecurity Act 1993 that may be exercised in respect of an unwanted organism, and the provisions of that Act apply with all necessary modifications.

(3) A person who may exercise powers under the Biosecurity Act 1993 in respect of unwanted organisms may also exercise those powers under that Act in respect of new organisms whether or not the person is appointed as an enforcement officer under this Act.

(4) Without limiting subsection (2), the provisions of the Biosecurity Act 1993 that apply, with all necessary modifications, for the purposes of this section include sections 162A, 163, and 164 of that Act.

(4A) The enforcement agency's costs of enforcing this Act in respect of new organisms are to be treated as if they were costs of administering the Biosecurity Act 1993, and—

(a) may be recovered in accordance with section 135 of that Act; and

(b) may be funded by a levy imposed under section 137 of that Act; and

(c) may be prescribed, in regulations made under section 165(1)(s) of that Act, as costs that are recoverable.

(5) In this section,—

enforcement agency means the chief executive of the department of State responsible for the administration of the Biosecurity Act 1993

unwanted organism has the same meaning as in section 2(1) of the Biosecurity Act 1993.

Section 97A: inserted, on 30 October 2003, by section 45 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 97A(4A): inserted, on 20 April 2010, by section 25 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

97AA Border information supplied using JBMS must be supplied in approved form and manner

(1) This section applies to a requirement by or under this Act to supply any border information to the Ministry (for example, to the chief executive of the department of State responsible for the administration of the Biosecurity Act 1993 in enforcing this Act in respect of new organisms).

(2) Any person who uses a JBMS (Joint Border Management System) to comply with the requirement (including, without limitation, by supplying the information to the Customs, or to an appointed agency, in accordance with section 41D or 41H of the Biosecurity Act 1993) must supply the information in a form and manner—

(a) for complying with the requirement by using the JBMS; and

(b) for the time being generally approved in writing by the chief executive of the department of State responsible for the administration of the Biosecurity Act 1993.

(3) The approved form and manner referred to in subsection (2)—

(a) must be notified via an Internet site that is, so far as practicable, publicly available free of charge; and

(b) may be set out in rules under section 325 of the Customs and Excise Act 2018.

(4) **Border information**, **JBMS**, and **Ministry** have, in this section, the meanings given or referred to in section 41A(1) of the Biosecurity Act 1993.

Section 97AA: inserted, on 24 June 2014, by section 16 of the Biosecurity (Border Processing—Trade Single Window) Amendment Act 2014 (2014 No 11).

Section 97AA(2): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 97AA(3)(b): replaced, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

97AB Duty to use JBMS to supply border information

(1) This section applies to a requirement by or under this Act to supply any border information to the Ministry (for example, to the chief executive of the department of State responsible for the administration of the Biosecurity Act 1993 in enforcing this Act in respect of new organisms).

(2) After the commencement of this section, the only ways in which a person can comply with the requirement are—

(a) by using a JBMS; or

(b) by using another means for the time being generally or specifically approved in writing by the responsible person.

(3) **Border information**, **JBMS**, and **Ministry** have, in this section, the meanings given or referred to in section 41A(1) of the Biosecurity Act 1993, and **responsible person** means, in this section, the person (whether described as the enforcement agency or otherwise) who under sections 97 to 97B of this Act is responsible for enforcement of the requirement.

Section 97AB: inserted, on 1 July 2016, by section 18(4) of the Biosecurity (Border Processing—Trade Single Window) Amendment Act 2014 (2014 No 11).

Section 97AB(2)(a): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

97B Enforcement of Act in respect of hazardous substances in workplace

An inspector appointed under section 163 of the Health and Safety at Work Act 2015 may also exercise the powers of an enforcement officer under this Act in relation to hazardous substances in any workplace, whether or not the person is appointed as an enforcement officer under this Act.

Section 97B: replaced, on 1 December 2017, by section 38 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

97C Sharing of information between Authority and enforcement agencies

(1) Subject to any enactment,—

(a) the Authority may provide an enforcement agency with any information, or a copy of any document, that it—

(i) holds in relation to the performance or exercise of its functions, duties, or powers under or in relation to this Act; and

(ii) considers may assist the enforcement agency in the performance or exercise of the enforcement agency's functions, duties, or powers under or in relation to any enactment; and

(b) an enforcement agency may provide the Authority with any information, or a copy of any document, that it—

(i) holds in relation to the performance or exercise of its functions, duties, or powers under or in relation to any enactment; and

(ii) considers may assist the Authority in the performance or exercise of its functions, duties, or powers under or in relation to this Act.

(2) If subsection (1)(a) or (b) applies, the Authority or enforcement agency (as the case may be) may impose conditions that it thinks fit relating to the provision of the information or document, including conditions relating to—

(a) the storage and use of, or access to, anything provided:

(b) the copying, returning, or disposing of copies of any documents provided.

(3) In this section, **enforcement agency** means the New Zealand Customs Service and any entity referred to in section 97.

(4) Nothing in this section limits the Privacy Act 2020.

(5) This section applies despite anything to the contrary in any contract, deed, or document.

Section 97C: inserted, on 1 December 2017, by section 39 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 97C(4): amended, on 1 December 2020, by section 217 of the Privacy Act 2020 (2020 No 31).

98 Co-ordination of inspection

(1) Any person specified in section 97 or section 97A may,—

(a) appoint enforcement officers in accordance with section 100 to enforce the provisions of this Act; or

(b) transfer the power to enforce the provisions of this Act in their area in accordance with subsections (2) to (7).

(2) Any person who appoints any enforcement officers in accordance with subsection (1) shall, each year, no later than 1 month before the commencement of the Authority's financial year, notify the Authority of the premises where that person will appoint enforcement officers in accordance with section 100 and the nature and level of inspection and enforcement to be provided by those enforcement officers.

(3) Any person who has functions, powers, or duties under section 97 or section 97A may transfer all or any part of those functions, powers, or duties to another person specified in section 97 or section 97A, except that he or she may not transfer this power of transfer.

(4) *[Repealed]*

(5) A person may not transfer any function, power, or duty under this section unless—

(a) the person has first—

(i) notified the Authority in accordance with subsection (2); and

(ii) notified the Authority where that person proposes to transfer the function to enforce the provisions of this Act to another person; and

(iii) has received the approval of the Authority to the transfer in the case of a transfer between territorial authorities or the approval of the relevant Ministers to the transfer in the case of a transfer between other persons; and

(b) both persons agree that the transfer is desirable on any of the following grounds:

(i) to ensure sufficient enforcement of this Act and to ensure that there is not unnecessary duplication of enforcement:

(ii) efficiency:

(iii) technical or special capability or expertise.

(6) A transfer of functions, powers, or duties under this section shall be made by agreement between the authorities concerned and on such terms and conditions as are agreed.

(7) A person to whom any function, power, or duty is transferred under this section may accept such transfer unless expressly forbidden to do so by the terms of any Act by or under which that person is appointed; and upon any such transfer, that person's functions, powers, and duties shall be deemed to be extended in such manner as may be necessary to enable the person to undertake, exercise, and perform the function, power, or duty.

(8) Any transfer of any function, power, or duty under this section may be changed or revoked at any time by agreement between the transferee and transferor and upon notice to the Authority.

Section 98(1): amended, on 30 October 2003, by section 46 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 98(3): amended, on 30 October 2003, by section 46 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 98(4): repealed, on 2 July 2001, by section 32 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

98A Chief executives of Ministry and Authority to have functions, powers, duties, and protections of enforcement officers

(1) For the purposes of this Act, a chief executive has the same functions, powers, duties, and protections that enforcement officers have under this Act.

(2) In subsection (1), **chief executive** means—

(a) the chief executive of the department of State responsible for the administration of this Act:

(b) the chief executive of the Authority.

Section 98A: inserted, on 30 October 2003, by section 47 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

99 Supervision of inspection

(1) The Authority shall ensure that the provisions of this Act are enforced in all premises likely to contain a hazardous substance or new organism and shall advise the persons specified in section 97 or section 97A and the Minister when the Authority considers that there is insufficient or unnecessary inspection and enforcement.

(2) The Authority shall record all notifications made by persons in accordance with section 98.

(3) The Authority may from time to time, as the Authority thinks fit,—

(a) appoint enforcement officers to enforce the provisions of this Act in such premises as the Authority thinks fit:

(b) authorise the chief executive of—

(i) any department defined in section 5 of the Public Service Act 2020:

(ii) any Crown entity:

(iii) any local authority—

to appoint enforcement officers to enforce the provisions of this Act in or on any premises specified by the Authority.

(4) In this section, **hazardous substance** includes gases under pressure, whether intrinsically hazardous or not.

Section 99(1): amended, on 30 October 2003, by section 48 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 99(3)(b)(i): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 99(3)(b)(ii): amended, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

Section 99(4): added, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 99(4): amended, on 1 December 2017, by section 40 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

100 Appointment of enforcement officers

(1) No person shall be appointed as an enforcement officer unless that person has the prescribed qualifications to carry out the powers, functions, and duties specified in the officer's warrant of appointment.

(2) Any person who appoints any person other than an employee as an enforcement officer shall remain liable in every respect for the actions of that officer, while he or she is acting as such, as if that person were an employee of the appointer.

(3) Every person who appoints an enforcement officer shall supply each officer with a warrant specifying the functions that the officer may carry out, and any such warrant may at any time be revoked by the person who issued it or by any successor in office of that person.

(4) Where the chief executive of a territorial authority appoints an enforcement officer in accordance with this section, the chief executive may designate that officer as a district hazardous substances officer.

101 Duty of territorial authorities

(1) If the Minister considers that any territorial authority is not exercising or performing any of its functions, powers, or duties under this Act to the extent that the Minister considers necessary to achieve the purposes of this Act, the Minister shall consult with the Minister of Local Government and may appoint, on such terms and conditions as the Minister thinks fit, the Authority to exercise or perform all or any of those functions, powers, or duties in place of the territorial authority.

(2) Before making any appointment under subsection (1), the Minister shall give the territorial authority at least 20 working days' notice in writing of the Minister's intention to do so, specifying the reasons why the Minister considers such an appointment is necessary.

(3) The notice shall invite the territorial authority to give to the Minister, within such period (being not less than 20 working days after the date of the notice) as may be specified in the notice, such written comments as the territorial authority wishes to make about any steps that the territorial authority is taking, or is intending to take, that may obviate the need for an appointment, and the Minister shall consider those comments and the need for making an appointment before making an appointment.

(4) The Authority, if appointed under subsection (1) to exercise or perform the functions, powers, or duties of a territorial authority under this Act, may do so as if it were the territorial authority; and the provisions of this Act shall apply accordingly.

(5) All costs, charges, and expenses incurred by the Authority for the purposes of this section, in exercising or performing any functions, powers, or duties of a territorial authority under this Act, shall be recoverable from the territorial authority as a debt due to the Authority or may be deducted from any money payable to the territorial authority by the Authority.

(6) In making any such appointment, the Minister shall specify the period for which the appointment is made, and it may from time to time be renewed.

(7) Any appointment of the Authority under this section may be revoked at any time by the Minister.

(8) In determining whether any appointment under this section should be renewed or whether a new appointment should be made, the Minister shall consider whether the territorial authority is capable of exercising its powers, functions, and duties under this Act, and, if the Minister considers the territorial authority is so capable, the territorial authority shall be directed by the Minister to resume those powers, functions, and duties.

102 Building Act 2004

(1) Where an enforcement officer believes that any building or building work does not comply with the Building Act 2004, the enforcement officer shall, by notice in writing, give to the appropriate territorial authority details of the respects in which the building or building work is believed not to comply.

(2) For the purposes of this section, the terms **building**, **building work**, and **territorial authority** have the meanings ascribed to them by the Building Act 2004.

Section 102 heading: substituted, on 31 March 2005, pursuant to section 414 of the Building Act 2004 (2004 No 72).

Section 102(1): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 102(1): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 102(2): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 102(2): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

103 Powers of entry for inspection relating to new organisms

(1) Any enforcement officer may, at any reasonable time,—

(a) go on, into, under, and over any premises (excluding dwellings); or

(b) with the consent of the occupier, go on, into, under, and over a dwelling—

for the purpose of inspection to—

(c) monitor compliance with the conditions or controls on any new organism in any premises where a new organism approved under this Act is located; or

(d) determine the nature of any organism in the premises; or

(e) determine whether or not any person is complying with a compliance order.

(2) For the purposes of subsection (1), an enforcement officer may—

(a) take samples of water, air, soil, any substance, or any organism; and

(b) open containers or packages (including secured or sealed containers or packages) to inspect the contents; and

(c) take photographs and measurements and make sketches and recordings; and

(d) take or remove any thing for analysis or testing; and

(e) conduct examinations, tests, inquiries, demonstrations, and inspections; and

(ea) require that any place or thing specified by the enforcement officer is not disturbed for a reasonable time pending any examination, test, inquiry, demonstration, or inspection; and

(eb) require the making of statements by the person in charge of the premises, in any form or manner specified by the enforcement officer, about conditions, material, or equipment relevant to the purpose of the inspection; and

(f) require the production of any documents relevant to the purpose of the inspection; and

(g) take copies of the documents or information or extracts from those documents or information.

(3) Where any enforcement officer has taken any thing in accordance with subsection (2)(d), the enforcement officer shall give the occupier of the premises written notice of the things that have been taken, the reason for taking the things, and where the things will be kept.

(4) Within 5 working days of removing the thing the enforcement officer shall give the person in charge of the premises written notice stating—

(a) whether or not the thing will be returned or destroyed; and

(b) either—

(i) the time and date of the return of the thing to the premises; or

(ii) the results of the analysis of the thing and why it is being destroyed.

(5) Every enforcement officer exercising any of the powers conferred under this section shall, at the time of exercising that power, and thereafter on request, produce—

(a) evidence of that person's appointment as an enforcement officer; and

(b) evidence of that person's identity.

(6) An enforcement officer may take any person with relevant experience or expertise on to the premises to assist the officer with the inspection.

(7) Nothing in this section shall limit or affect the privilege against self-incrimination.

Section 103 heading: amended, on 1 December 2017, by section 41(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 103(1)(a): amended, on 31 December 2000, by section 33(1) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 103(1)(c): amended, on 1 December 2017, by section 41(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 103(1)(c): amended, on 30 October 2003, by section 49 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 103(1)(d): amended, on 1 December 2017, by section 41(3) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 103(2)(c): substituted, on 31 December 2000, by section 33(2) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 103(2)(ea): inserted, on 31 December 2000, by section 33(3) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 103(2)(eb): inserted, on 31 December 2000, by section 33(3) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 103(6): substituted, on 31 December 2000, by section 33(4) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

103A Powers of entry for inspection relating to hazardous substances

(1) Any enforcement officer may, at any reasonable time, for the purposes referred to in subsection (2),—

(a) go on, into, under, and over any premises (excluding dwellings); or

(b) with the consent of the occupier, go on, into, under, and over a dwelling.

(2) The purposes concerned are to—

(a) monitor or enforce compliance with this Act and any conditions, controls, or requirements on any hazardous substance; or

(b) determine the nature of any hazardous substance; or

(c) determine whether or not any person is complying with a compliance order.

(3) For the purposes of this section, an enforcement officer may—

(a) take samples of water, air, soil, any substance, or any organism; and

(b) open containers or packages (including secured or sealed containers or packages) to inspect the contents; and

(c) take photographs and measurements and make sketches and recordings; and

(d) take or remove any thing for analysis or testing; and

(e) conduct examinations, tests, inquiries, demonstrations, and inspections; and

(f) require that any place or thing specified by the enforcement officer is not disturbed for a reasonable time pending any examination, test, inquiry, demonstration, or inspection; and

(g) require any person in charge of relevant premises to—

(i) make statements, in any form or manner specified by the enforcement officer, about conditions, material, or equipment relevant to the purpose of the inspection; or

(ii) produce information relevant to the purpose of the inspection, and take copies of the information or extracts from the information.

(4) An enforcement officer may do any of the things referred to in subsection (3) whether or not—

(a) the enforcement officer or the person whom the enforcement officer is dealing with has gone on, into, under, or over premises or a dwelling described in subsection (1)(a) or (b); or

(b) in respect of any information, the information is—

(i) on premises or in a dwelling that is described in subsection (1)(a) or (b); or

(ii) in the place where the enforcement officer is; or

(iii) in another place.

(5) If any enforcement officer has taken any thing in accordance with subsection (3)(d), the enforcement officer must give the occupier of the premises written notice of the things that have been taken, the reason for taking the things, and where the things will be kept.

(6) Within 5 working days of removing a thing, the enforcement officer must give the person in charge of the premises written notice stating—

(a) whether or not the thing will be returned or destroyed; and

(b) either—

(i) the time and date of the return of the thing to the premises; or

(ii) the results of the analysis of the thing and why it is being destroyed.

(7) Every enforcement officer exercising any of the powers conferred under this section must, at the time of exercising that power, and after that on request, produce—

(a) evidence of that person's appointment as an enforcement officer; and

(b) evidence of that person's identity.

(8) An enforcement officer may take any person with relevant experience or expertise on to the premises to assist the officer with the inspection.

(9) Nothing in this section limits or affects the privilege against self-incrimination.

(10) In this section,—

information includes any document

relevant premises means premises where hazardous substances are located or that are used or are likely to be used for activities related to the manufacture, import, or supply of hazardous substances, including the keeping of documents related to those activities.

Section 103A: inserted, on 1 December 2017, by section 42 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Compliance orders

104 Scope of compliance order

(1) A compliance order may be served on any person by an enforcement officer—

(a) requiring that person to cease, or prohibiting that person from commencing, anything done or to be done by or on behalf of that person that, in the opinion of the enforcement officer,—

(i) contravenes or is likely to contravene this Act, any regulations, any EPA notice, or a control imposed by an approval under this Act; or

(ii) relates to any hazardous substance or new organism and is or is likely to be dangerous, to such an extent that it has or is likely to have an adverse effect on the health and safety of people or the environment; or

(b) requiring that person to do something that, in the opinion of the enforcement officer, is necessary to ensure that person complies with this Act, any regulations, any EPA notice, or any controls imposed by an approval granted under this Act, or is necessary to avoid, remedy, or mitigate any actual or likely adverse effects on people or the environment resulting from any breach of any regulations, any EPA notice, or any controls imposed by an approval granted under this Act—

(i) caused by or on behalf of the person; or

(ii) relating to any land of which the person is the owner or occupier.

(2) A compliance order may be made subject to such conditions as are reasonable in the circumstances.

Section 104(1)(a)(i): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 104(1)(b): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

105 Compliance with compliance order

Subject to the rights of appeal in section 125, any person on whom a compliance order is served shall—

(a) comply with the order within the period specified in the order; and

(b) unless the order directs otherwise, pay all the costs and expenses of complying with the order.

106 Form and content of compliance order

(1) Every compliance order shall be in the prescribed form and shall state—

(a) the name of the person to whom it is addressed; and

(b) the reasons for the order; and

(c) the action required to be taken or ceased or not undertaken; and

(d) the period within which the action shall be taken or cease; and

(e) the consequences of either not complying with the order or lodging a notice of appeal; and

(f) the rights of appeal under section 125; and

(g) the name and address of the agency whose enforcement officer served the order.

(2) The period referred to in subsection (1)(d) must—

(a) commence at the time the compliance order is served; and

(b) be reasonable, having regard to the circumstances giving rise to the compliance order.

Section 106(1)(d): amended, on 30 October 2003, by section 50(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 106(1)(f): amended, on 30 October 2003, by section 50(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 106(2): added, on 30 October 2003, by section 50(3) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 106(2)(a): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

107 Service of compliance order

(1) Where a compliance order is to be served on a person, it may be served—

(a) by delivering it personally to the person (other than a Minister of the Crown); or

(b) by delivering it at the usual or last known place of residence or business of the person by any means, including by facsimile; or

(c) by sending it by prepaid post addressed to the person at the usual or last known place of residence or business of that person.

(2) Where a notice or other document is to be served on a body (whether incorporated or not) for the purposes of this Act, service on an officer of the body, or on the registered office of the body, in accordance with subsection (1) shall be deemed to be service on the body.

(3) Where a notice or other document is to be served on a partnership for the purposes of this Act, service on any one of the partners in accordance with subsection (1) shall be deemed to be service on the partnership.

(4) Where a notice or other document is sent by post to a person in accordance with subsection (1)(c), it shall be deemed, in the absence of proof to the contrary, to be received by the person at the time at which the letter would have been delivered in the ordinary course of the post.

108 Cancellation of compliance order

(1) For the purposes of this section, **relevant person** means the person or body who or which appointed the enforcement officer who served the compliance order.

(2) Where a relevant person considers that a compliance order is no longer required, the relevant person may cancel the order at any time except where the order is subject to appeal under section 125.

(3) Where any relevant person delegates his or her power under this section, no person to whom the powers are delegated shall consider any application made under subsection (6), in respect of any compliance order which he or she has issued.

(4) The chief executive of a territorial authority may delegate any of his or her powers, functions, or duties under this section.

(5) The relevant person shall give written notice of a decision under subsection (2) to cancel a compliance order to any person subject to the order.

(6) Any person who is directly affected by a compliance order may apply in writing to the relevant person to change or cancel the order.

(7) The relevant person shall, as soon as practicable, consider the application, having regard to the purpose for which the compliance order was given, the effect of a change or cancellation on that purpose, and any other matter the relevant person thinks fit; and the relevant person may confirm, change, or cancel the order.

(8) The relevant person shall give written notice of the decision to the person who applied under subsection (6).

(9) Where the relevant person, after considering an application made under subsection (6) by a person who is directly affected by a compliance order, confirms the order or changes it in a way other than that sought by that person, that person may appeal to the District Court in accordance with section 125(3) against the whole or any part of the compliance order.

(10) A compliance order may not be cancelled where the District Court has confirmed the order.

Enforcement

109 Offences

(1) Every person commits an offence against this Act who—

(a) imports or manufactures any hazardous substance in contravention of this Act; or

(aa) imports, manufactures, uses, or stores a persistent organic pollutant in contravention of this Act; or

(b) develops or field tests a new organism in contravention of this Act; or

(c) knowingly imports or releases a new organism in contravention of this Act; or

(d) knowingly, recklessly, or negligently—

(i) manufactures, imports, develops, uses, or disposes of any hazardous substance or new organism where any approval is suspended in accordance with section 64:

(ii) possesses or disposes of any hazardous substance or new organism imported, manufactured, developed, or released in contravention of this Act; or

(da) fails to comply with any requirements in an EPA notice made under section 76A(d) or (f); or

(e) fails to comply with—

(i) any controls imposed by an approval relating to a new organism granted under this Act; or

(ii) any EPA controls imposed by an approval relating to a hazardous substance granted under this Act; or

(iii) any controls specified in any regulations relating to a new organism; or

(iv) any prohibition specified in any regulations; or

(v) any controls specified in any regulations or an EPA notice relating to a hazardous substance; or

(vi) any requirement to obtain a certificate specified in any regulations or an EPA notice; or

(vii) any restriction imposed on the use of a hazardous substance under section 64A; or

(ea) fails to comply with a condition on a permission granted under section 95A; or

(eb) fails to comply with a condition imposed under section 96B(1)(b) on an identified group of hazardous substances or products; or

(f) fails to comply with any compliance order served under section 107; or

(g) fails to comply with any of the requirements of section 124; or

(h) fails without any lawful justification or excuse to obtain any transferable permit when required to do so by any Order in Council in force under this Act; or

(i) being a manufacturer, developer, or importer of any hazardous substance or new organism knowingly fails to report any significant new information of any adverse effect of that hazardous substance or new organism; or

(j) knowingly personates any enforcement officer; or

(k) wilfully obstructs any enforcement officer in the course of his or her duties; or

(l) falsely informs a person that an emergency exists where that person knows the information to be false; or

(m) knowingly labels any package or container in such a manner that the label could in an emergency wrongly indicate the presence of hazardous substances to an enforcement officer, an employee, volunteer, or contractor of Fire and Emergency New Zealand, or constable.

(2) *[Repealed]*

Section 109(1)(a): amended, on 1 December 2017, by section 43(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 109(1)(aa): inserted, on 23 December 2004, by section 12 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 109(1)(b): amended, on 7 May 1999, by section 9 of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 109(1)(da): inserted, on 5 September 2015, by section 43(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 109(1)(e): replaced, on 1 December 2017, by section 43(3) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 109(1)(e)(vii): inserted, on 1 November 2022, by section 28 of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 109(1)(ea): inserted, on 24 March 2004, by section 7 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 109(1)(ea): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 109(1)(eb): inserted, on 22 December 2005, by section 29 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 109(1)(eb): amended, on 1 December 2017, by section 43(4) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 109(1)(m): amended, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

Section 109(1)(m): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 109(2): repealed, on 20 April 2010, by section 27 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

109A Time for filing charging document

(1) The limitation period in respect of an offence against this Act that relates to a hazardous substance ends on the date that is 6 months after the earlier of—

(a) the date when the incident, situation, or set of circumstances to which the offence relates first became known to the person by whom the proceedings are commenced; or

(b) the date when the incident, situation, or set of circumstances to which the offence relates should reasonably have become known to the person.

(2) The limitation period in respect of an offence against this Act that relates to a new organism ends on the date that is 2 years after the date on which the offence was committed.

(3) Subsection (1) is subject to section 109B.

Section 109A: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

109B Extension of time for filing charging document

(1) The District Court may, on application by any person, extend the time for the person to file a charging document under section 109A(1).

(2) The application must be made within the 6-month period that applies to the person under section 109A(1).

(3) The court must not grant an extension unless it is satisfied that—

(a) the person reasonably requires longer than the 6-month period to decide whether to file a charging document; and

(b) the reason for requiring the longer period is that the investigation of the events and issues surrounding the alleged offence is complex or time-consuming; and

(c) it is in the public interest in the circumstances that a charging document is able to be filed after the 6-month period expires; and

(d) filing the charging document after the 6-month period expires will not unfairly prejudice the proposed defendant in defending the charge.

(4) The court must give the following persons an opportunity to be heard:

(a) the person seeking the extension:

(b) the proposed defendant.

Section 109B: inserted, on 20 April 2010, by section 28 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 109B heading: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 109B(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 109B(3)(a): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 109B(3)(c): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 109B(3)(d): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

110 Infringement offences

In sections 111 to 113—

infringement fee, in relation to an infringement offence, means the amount fixed by regulations made under section 140, as the infringement fee for the offence

infringement offence means an offence specified as such in regulations made under section 140.

Section 110 **infringement fee**: amended, on 7 May 1999, by section 15(d) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 110 **infringement offence**: amended, on 7 May 1999, by section 15(d) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

111 Commission of infringement offence

(1) Where any person is alleged to have committed an infringement offence, that person may either—

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

(b) be served with an infringement notice as provided for in section 112.

(2) Proceedings commenced in the way described in subsection (1)(a) do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957.

Section 111(1)(a): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 111(2): inserted, on 1 December 2017, by section 44 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

112 Infringement notices

(1) Where an enforcement officer observes a person committing an infringement offence, or has reasonable cause to believe such an offence is being or has been committed by that person, an infringement notice may be issued in respect of that offence.

(2) Any enforcement officer (not necessarily the officer who issued the notice) may deliver the infringement notice (or a copy of it) to the person alleged to have committed an infringement offence personally or by post addressed to that person's last known place of residence or business; and in that case it (or the copy) shall be deemed to have been served on that person when it was posted.

(3) Every infringement notice shall be in the prescribed form and shall contain the following particulars:

(a) such details of the alleged infringement offence as are sufficient fairly to inform a person of the time, place, and nature of the alleged offence; and

(b) the amount of the infringement fee specified for that offence; and

(c) the address at which the infringement fee may be paid; and

(d) the time within which the infringement fee must be paid; and

(e) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and

(f) a statement that the person served with the notice has the right to request a hearing; and

(g) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing; and

(h) such other particulars as are prescribed.

(4) Where an infringement notice has been issued under this section, proceedings in respect of the offence to which the notice relates may be commenced in accordance with section 21 of the Summary Proceedings Act 1957; and in that case the provisions of that section shall apply with the necessary modifications.

Section 112(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

113 Entitlement to infringement fees

(1) A territorial authority shall be entitled to retain all infringement fees received by it in respect of infringement offences where the infringement notice was issued by an enforcement officer employed by that authority.

(2) A regional council is entitled to retain all infringement fees received by it in respect of infringement offences where the infringement notice was issued by an enforcement officer employed by that council.

(3) Except as provided in subsections (1) and (2), all infringement fees paid in respect of infringement offences must be paid into a Crown Bank Account.

Section 113(2): inserted, on 1 December 2017, by section 45 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 113(3): inserted, on 1 December 2017, by section 45 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

114 Penalties

(1) Every person who commits an offence against paragraph (a) or paragraph (aa) or paragraph (b) or paragraph (c) or paragraph (d) or paragraph (da) or paragraph (e)(i) to (vi) or paragraph (ea) or paragraph (eb) of section 109(1) is liable on conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding $500,000 and, if the offence is a continuing one, to a further fine not exceeding $50,000 for every day or part of a day during which the offence has continued.

(1A) Every person who commits an offence against section 109(1)(e)(vii) is liable on conviction,—

(a) in the case of a natural person, to a fine not exceeding $50,000:

(b) in the case of a person other than a natural person, to a fine not exceeding $100,000.

(2) Every person who commits an offence against paragraph (f) or paragraph (g) or paragraph (h) or paragraph (i) of section 109(1), or section 156(1), is liable on conviction to a fine not exceeding $50,000 and, if the offence is a continuing one, to a further fine not exceeding $5,000 for every day or part of a day during which the offence has continued.

(3) Every person who commits an offence against paragraph (j) or paragraph (k) or paragraph (l) or paragraph (m) of section 109(1) is liable on conviction to a fine not exceeding $5,000.

(4) Where any person is convicted of an offence against section 109, the court may, instead of or in addition to imposing any fine or term of imprisonment, revoke any transferable permit held by that person.

(5) Where any person is convicted of an offence against section 109, the court may, instead of or in addition to imposing any fine or term of imprisonment, order the person to mitigate or remedy any adverse effects on people or the environment—

(a) caused by or on behalf of the person; or

(b) relating to any land of which the person is the owner or occupier—

or to pay the costs of doing so.

(6) Where any person is convicted of an offence against section 109, the court may, instead of or in addition to imposing any fine or term of imprisonment, order the destruction of any new organism.

(6A) To avoid doubt, the court may make an order under either or both of subsection (5) and subsection (6) against the same person in respect of the same offence.

(7) The continued existence of anything, or the intermittent repetition of any actions, contrary to any provision of this Act shall be deemed to be a continuing offence.

Section 114(1): amended, on 1 November 2022, by section 29(1) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 114(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 114(1): amended, on 22 December 2005, by section 30 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 114(1): amended, on 23 December 2004, by section 13 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 114(1): amended, on 24 March 2004, by section 8 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 114(1A): inserted, on 1 November 2022, by section 29(2) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 114(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 114(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 114(6A): inserted, on 30 October 2003, by section 51 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

115 Liability of employers and principals

(1) Subject to subsection (3), where any offence is committed against this Act by a person as the employee of another person, that offence shall, for the purposes of this Act, be treated as committed by that other person as well as by the first-mentioned person, whether or not it was done with that other person's knowledge or approval.

(2) Where any offence is committed against this Act by a person acting as the agent of another person, that offence shall, for the purposes of this Act, be treated as committed by the principal unless it is done without the principal's express or implied authority.

(3) In any proceedings (being proceedings for an offence against this Act or regulations) against any person in respect of any offence alleged to have been committed against this Act by an employee of that person, it shall be a defence for that person to prove—

(a) that—

(i) he or she did not know nor could reasonably be expected to have known that the offence was to be or was being committed; or

(ii) he or she took such steps as were reasonably practicable to prevent the commission of the offence; and

(b) that he or she took such steps as were reasonable in all the circumstances to remedy any effects of the act or omission giving rise to the offence.

116 Liability of directors and officers of bodies corporate

Where any body corporate is convicted of an offence against this Act, every director and every person concerned in the management of the body corporate shall be guilty of the like offence if it is proved—

(a) that the act that constituted the offence took place with his or her authority, permission, or consent; and

(b) that he or she knew or could reasonably be expected to have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

117 Strict liability and defences

(1) In any prosecution for an offence specified in paragraph (a) or paragraph (aa) or paragraph (b) or paragraph (e) or paragraph (eb) or paragraph (f) or paragraph (g) of section 109(1), it is not necessary to prove that the defendant intended to commit the offence.

(2) It is a defence to prosecution of the kind referred to in subsection (1) if the defendant proves—

(a) that—

(i) the action or event to which the prosecution relates was necessary for the purposes of saving or protecting life or health, or preventing serious damage to property or avoiding an actual or likely adverse effect on the environment; and

(ii) the conduct of the defendant was reasonable in the circumstances; and

(iii) the defendant took such steps as were reasonable in all the circumstances to mitigate or remedy the effects of the action or event after it occurred; or

(b) that the action or event to which the prosecution relates was due to an event beyond the control of the defendant, including natural disaster, mechanical failure, or sabotage, and in each case—

(i) the action or event could not reasonably have been foreseen or been provided against by the defendant; and

(ii) the defendant took such steps as were reasonable in all the circumstances to mitigate or remedy the effects of the action or event after it occurred; or

(c) that the action or event to which the prosecution related was within the defendant's control; but—

(i) the defendant had taken all reasonable steps to prevent the action or event; and

(ii) the defendant took such steps as were reasonable in all the circumstances to mitigate or remedy the effects of the action or event after it occurred.

(3) It is a defence to prosecution for any offence specified in section 109(1)(e)(ii) or (iii) that the defendant—

(a) complied with any code of practice approved under section 79 (and published under the Legislation Act 2019) as a method of achieving the controls that it is alleged that the defendant failed to comply with; or

(b) was the holder of any current certificate issued by any certifier in accordance with section 82, certifying that the controls that it is alleged that the defendant failed to comply with had been met,—

unless the defendant had reason to believe that the code of practice or the structure or goods covered by the certificate did not meet the relevant controls.

(4) *[Repealed]*

Section 117(1): amended, on 22 December 2005, by section 31 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 117(1): amended, on 23 December 2004, by section 14 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 117(3): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 117(3): amended, on 7 May 1999, by section 10 of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 117(3)(a): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 117(3)(b): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 117(4): repealed, on 1 December 2017, by section 46 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

118 Fines to be paid to territorial authority instituting prosecution

(1) Subject to subsection (2), where a person is convicted of an offence under section 109 and the court imposes a fine, the court shall, if the charging document for that offence was filed on behalf of a territorial authority, order that the fine be paid to that territorial authority.

(2) There shall be deducted from every amount payable to a territorial authority under subsection (1), a sum equal to 10% thereof, and that sum shall be credited to a Crown Bank Account.

(3) Notwithstanding anything in subsection (2), where any money awarded by a court in respect of any loss or damage is recovered as a fine, and that fine is ordered to be paid to a territorial authority under subsection (1), no deduction shall be made under subsection (2) in respect of that money.

(4) Subject to subsection (2), an order of the court made under subsection (1) shall be sufficient authority for the Registrar receiving the fine to pay that fine to the territorial authority entitled to it under the order.

(5) Nothing in section 73 of the Public Finance Act 1989 shall apply to any fine ordered to be paid to any territorial authority under subsection (1).

Section 118(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 118(2): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

119 Search warrants

(1) Any issuing officer (within the meaning of section 3 of the Search and Surveillance Act 2012) who is satisfied, on an application made in the manner provided in subpart 3 of Part 4 of that Act, that there are reasonable grounds for believing that there is, in or on or under or over any premises or any dwelling,—

(a) any substance or organism that has been imported, manufactured, developed, supplied, released, held, transported, or disposed of in contravention of this Act; or

(b) any documents or other records which there are reasonable grounds to believe may be evidence of the commission of any offence under this Act to which paragraph (a) applies,—

may issue a search warrant.

(2) Every search warrant shall be directed either to a constable by name or to every constable or to any enforcement officer by name, but in any of those cases, the warrant may be executed by any constable.

(3) Subject to subsection (4), the provisions of Part 4 of the Search and Surveillance Act 2012 apply.

(4) Despite subsection (3), sections 118 and 119 of the Search and Surveillance Act 2012 apply only in respect of a warrant issued to a named constable or to every constable.

(5) *[Repealed]*

(6) *[Repealed]*

(7) *[Repealed]*

(8) *[Repealed]*

Section 119(1): amended, on 1 October 2012, by section 255(2)(a) of the Search and Surveillance Act 2012 (2012 No 24).

Section 119(1): amended, on 1 October 2012, by section 255(2)(b) of the Search and Surveillance Act 2012 (2012 No 24).

Section 119(1)(a): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 119(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 119(3): replaced, on 1 October 2012, by section 255(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 119(4): replaced, on 1 October 2012, by section 255(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 119(5): repealed, on 1 October 2012, by section 255(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 119(6): repealed, on 1 October 2012, by section 255(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 119(7): repealed, on 1 October 2012, by section 255(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 119(8): repealed, on 1 October 2012, by section 255(3) of the Search and Surveillance Act 2012 (2012 No 24).

120 Dealing with property seized by enforcement officers

[Repealed]

Section 120: repealed, on 1 October 2012, by section 255(4) of the Search and Surveillance Act 2012 (2012 No 24).

121 Application of Customs and Excise Act 2018 to hazardous substance imported in breach of this Act

A hazardous substance that is being, or has been, imported in breach of this Act is a prohibited import under section 96 of the Customs and Excise Act 2018, and the provisions of that Act (including, for the avoidance of doubt, sections 388 and 389) apply accordingly.

Section 121: replaced, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

122 Power to require hazardous substance to leave New Zealand

(1) If a Customs officer has reasonable cause to believe that a hazardous substance is being, or has been, imported in breach of this Act, the Customs officer may,—

(a) in the case of a hazardous substance that is being imported in breach of this Act, direct that the importer of the hazardous substance cause the hazardous substance to remain on the ship or aircraft and leave New Zealand at the importer's own cost and in accordance with the directions of the Customs officer; or

(b) in the case of a hazardous substance that has been imported in breach of this Act and has been unloaded from a ship or aircraft, direct that the importer of the hazardous substance cause the hazardous substance to leave New Zealand at the importer's own cost and in accordance with the directions of the Customs officer.

(2) Subsection (1)(b) applies only to hazardous substances that are goods that are subject to the control of Customs in accordance with section 6 of the Customs and Excise Act 2018.

(3) In this section,—

cost, in relation to a hazardous substance that has been imported in breach of this Act, includes the costs of handling, storing, and transporting the hazardous substance

importer has the same meaning as in section 5(1) of the Customs and Excise Act 2018.

Section 122: substituted, on 22 December 2005, by section 33 of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 122(2): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 122(3) **importer**: amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

123 Declaration that organism not genetically modified

Any inspector (as defined in section 2(1) of the Biosecurity Act 1993) may require any person importing any organism to declare, by statutory declaration, that the organism is not a genetically modified organism.

124 Responsibilities of carrier and person in charge of any craft

(1) For the purposes of this Act, the carrier and the person in charge of any craft that berths, lands, or otherwise arrives in New Zealand from another country, or that is to so berth, land, or arrive, shall—

(a) ensure that any documentation, required by regulations or any EPA notice, in relation to all hazardous substances loaded onto that craft is available:

(b) on arrival of the craft at a Customs place, produce for inspection such documentation as a Customs officer may lawfully specify.

(2) The carrier and the person in charge of a craft leaving New Zealand shall—

(a) provide transportation from New Zealand, at the cost in respects of the carrier, of any hazardous substance on board the craft, or any other craft operated by the carrier when it arrived in New Zealand, which was not accompanied by the documentation required by regulations or any EPA notice:

(b) in respect of any hazardous substance for which the carrier is obliged to provide transportation or the cost of transportation under paragraph (a), to pay all the costs (if any) incurred by the Crown in holding that substance before the removal of that substance from New Zealand.

Section 124(1)(a): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 124(1)(b): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 124(2)(a): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Part 7A
Pecuniary penalties and civil liability for breaches relating to new organisms

Part 7A: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

124A Interpretation

In this Part, unless the context otherwise requires,—

court means the High Court

enforcement agency means the chief executive of the department of State responsible for the administration of the Biosecurity Act 1993.

Section 124A: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Pecuniary penalties

Heading: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

124B Pecuniary penalty order

(1) The enforcement agency may apply to the court for an order that a person pay to the Crown a pecuniary penalty under this Act.

(2) The court may make the order if it is satisfied that the person—

(a) developed, field tested, imported, or released a new organism in breach of this Act; or

(b) possessed or disposed of any new organism imported, developed, or released in breach of this Act; or

(c) failed to comply with any controls relating to a new organism—

(i) imposed by any approval granted under this Act; or

(ii) specified in regulations made under this Act.

(3) The court must not make the order if the person satisfies the court that the person did not know, and could not reasonably have known, of the breach.

Section 124B: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 124B(2)(b): amended, on 20 September 2007, by section 6 of the Hazardous Substances and New Organisms Amendment Act 2007 (2007 No 61).

124C Amount of pecuniary penalty

(1) The court must not make an order for the payment of a pecuniary penalty that exceeds,—

(a) in the case of an individual, $500,000; or

(b) in the case of a body corporate, the greater of—

(i) $10,000,000; or

(ii) if it can be readily ascertained and if the court is satisfied that the contravention occurred in the course of producing a commercial gain, 3 times the value of any commercial gain resulting from the contravention; or

(iii) if the commercial gain cannot be readily ascertained, 10% of the turnover of the body corporate and all of its interconnected bodies corporate (if any).

(2) In determining an appropriate penalty under this section, the court must have regard to all relevant matters, including—

(a) the nature and extent of the breach:

(b) the nature and extent of any loss or damage suffered by any person or to the environment as a result of the breach:

(c) the circumstances in which the breach took place:

(d) whether or not the person has previously been found in proceedings under this Act to have engaged in any similar conduct:

(e) the steps taken by the person to bring the breach to the attention of the enforcement agency:

(f) the steps taken by the person to avoid, remedy, or mitigate the effects of the breach.

(3) In this section, **interconnected** and **turnover** have the same meaning as in the Commerce Act 1986.

Section 124C: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

124D Other orders instead of or in addition to pecuniary penalty order

(1) At the conclusion of proceedings for an order for the payment of a pecuniary penalty under section 124B, the court may, instead of or in addition to making the order, make—

(a) an order that the person mitigate or remedy any adverse effects on people or the environment—

(i) caused by or on behalf of the person; or

(ii) relating to any land that the person owns or occupies; or

(b) an order to pay the costs of mitigating or remedying the adverse effects specified in paragraph (a).

(2) At the conclusion of proceedings for an order for the payment of a pecuniary penalty under section 124B, the court may, instead of or in addition to making the order, make an order for the destruction of the new organism involved in the breach.

(3) To avoid doubt, the court may make an order under either or both of subsections (1) and (2) against the same person in respect of the same breach.

Section 124D: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

124E Standard of proof and procedural matters

In proceedings for an order under section 124B,—

(a) the standard of proof is the standard of proof that applies in civil proceedings; and

(b) the enforcement agency may, by order of the court, obtain discovery and administer interrogatories.

Section 124E: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

124F Relationship between concurrent proceedings for pecuniary penalty and criminal proceedings

(1) Criminal proceedings under this Act may be started against a person whether or not proceedings for an order under section 124B have been started against the person for the same act or omission or substantially the same act or omission in respect of which the criminal proceedings have been started.

(2) Uncompleted proceedings for an order under section 124B must be stayed if criminal proceedings are started or have already been started against the person for the same act or omission or substantially the same act or omission in respect of which the order is sought.

Section 124F: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Civil liability for acts and omissions while in breach

Heading: inserted, 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

124G Civil liability

(1) A person is liable in damages for any loss or damage caused by any act or omission of the person while—

(a) developing, field testing, importing, or releasing a new organism in breach of this Act; or

(b) possessing or disposing of any new organism imported, developed, or released in breach of this Act; or

(c) failing to comply with any controls relating to a new organism—

(i) imposed by any approval granted under this Act; or

(ii) specified in any regulations made under this Act.

(2) A person is liable under subsection (1) whether or not—

(a) the person intended the act, omission, or breach; or

(b) the person was taking reasonable care when the act, omission, or breach occurred.

(3) To avoid doubt, proceedings under this section are in addition to, and not in substitution for, any other cause of action.

Section 124G: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 124G(1)(b): amended, on 20 September 2007, by section 7 of the Hazardous Substances and New Organisms Amendment Act 2007 (2007 No 61).

124H Defences to liability under section 124G

(1) A person is not liable under section 124G if the person proves 1 or more of the defences specified in subsection (2) in relation to the breach.

(2) The defences are—

(a) that—

(i) the breach was necessary for the purpose of—

(A) saving or protecting life or health; or

(B) preventing serious damage to property; or

(C) avoiding an actual or likely adverse effect on the environment; and

(ii) the conduct of the defendant was reasonable in the circumstances; and

(iii) the defendant took steps that were reasonable in all the circumstances to mitigate or remedy the effects of the breach after it occurred; or

(b) that the breach was due to an event beyond the control of the defendant (including natural disaster, mechanical failure, or sabotage) and—

(i) the event could not reasonably have been foreseen or been provided against by the defendant; and

(ii) the defendant took steps that were reasonable in all the circumstances to mitigate or remedy the effects of the breach after the event occurred; or

(c) that the defendant did not know, and could not reasonably have known, of the breach.

Section 124H: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Liability for acts and omissions of others

Heading: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

124I Breaches, acts, and omissions by directors, employees, or agents

(1) This section applies for the purposes of sections 124B and 124G.

(2) A body corporate is to be treated as in breach of this Act or as having done or omitted to do an act if—

(a) a director, employee, or agent of the body corporate, acting within the scope of his or her actual or apparent authority, is in breach of this Act or has done or omitted to do an act; or

(b) any other person, at the direction or with the consent or agreement (whether express or implied) of a director, employee, or agent of the body corporate, given within the scope of the actual or apparent authority of the director, employee, or agent, is in breach of this Act or has done or omitted to do an act.

(3) A person (**person A**) who is not a body corporate is to be treated as in breach of this Act or as having done or omitted to do an act if—

(a) an employee or agent of person A, acting within the scope of his or her actual or apparent authority, is in breach of this Act or has done or omitted to do an act; or

(b) any other person, at the direction or with the consent or agreement (whether express or implied) of an employee or agent of person A, given within the scope of the actual or apparent authority of the employee or agent, is in breach of this Act or has done or omitted to do an act.

(4) If a person in breach of this Act has a defence to the breach under section 124H, the defence is also available to another person if the breach is to be treated under subsection (2) or subsection (3) as also the breach of the other person.

(5) However, the defence under section 124H(2)(c) is not available to the other person unless the other person also proves that he or she did not know, and could not reasonably have known, of the breach by the person.

(6) If the court is prevented by section 124B(3) from making an order under that section against a person in breach of this Act and the breach is to be treated under subsection (2) or subsection (3) of this section as also the breach of another person, the court must not make an order under section 124B against

the other person if it is satisfied that the other person did not know and could not reasonably have known of the breach.

Section 124I: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Part 8
Appeals

125 Appeals

(1) In any case where the Authority—

(a) issues a transferable permit entitling the holder to import or manufacture less substance than the holder claimed to be entitled to import or manufacture; or

(b) declines any application for a transferable permit; or

(c) revokes any transferable permit; or

(d) imposes any charge on any person to recover costs in accordance with section 21; or

(da) revokes a certificate under section 82C; or

(e) *[Repealed]*

(f) *[Repealed]*

(g) *[Repealed]*

(h) *[Repealed]*

(i) declines any application under section 51 to tranship a substance or organism,—

any person directly affected may appeal against that decision to the District Court.

(1A) A person may appeal to the District Court against a decision of the Authority, under section 95A,—

(a) about the terms and conditions of a permission held by the person; or

(b) declining to grant the person a permission or revoking a permission held by the person.

(2) In any case where—

(a) any property is seized and retained pursuant to section 119; or

(b) an application for compensation is declined in accordance with section 138; or

(c) costs are awarded in accordance with section 61,—

the person directly affected may appeal against that decision to the District Court.

(2A) Where a Customs officer directs in accordance with section 122 that a hazardous substance remains on a ship or aircraft, the person directly affected may appeal against that direction to the District Court.

(2B) If a Customs officer directs in accordance with section 122 that an importer of a hazardous substance is to cause the hazardous substance to leave New Zealand, the importer may appeal against that direction to the District Court.

(3) Any person on whom a compliance order is served may appeal to the District Court against the whole or any part of that order.

(4) Any person who lodges a notice of appeal under subsection (3) may apply to the District Court for a stay of the compliance order until the determination of the appeal.

(5) The District Court shall not confirm a compliance order against which an appeal has been lodged where the person on whom the order was served was acting in accordance with—

(a) EPA controls on any hazardous substance under this Act; or

(b) conditions imposed on an approval granted under this Act.

(6) Subject to subsection (7), the decision of the court on any appeal under this Act shall be final.

(7) Any party to an appeal under this section may further appeal to the High Court on a question of law.

(8) An appeal under this section must be made and determined in accordance with the District Court Act 2016 and the District Court Rules 2014.

Section 125(1)(da): inserted, on 22 December 2005, by section 34(1) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 125(1)(da): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 125(1)(e): repealed, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 125(1)(f): repealed, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 125(1)(g): repealed, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 125(1)(h): repealed, on 7 May 1999, by section 12(1) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 125(1A): replaced, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 125(2A): inserted, on 7 May 1999, by section 12(2) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 125(2B): inserted, on 22 December 2005, by section 34(2) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 125(5)(a): amended, on 1 December 2017, by section 47(1) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 125(8): inserted, on 1 December 2017, by section 47(2) of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

126 Appeal on question of law

(1) Any—

(a) party to any application for an approval or an application under section 26 or regulations; or

(b) person who made submissions to the Authority on any application for an approval or an application under section 26 or regulations—

may appeal against the decision of the Authority to the High Court on a question of law, unless a right of appeal to the District Court against the decision is provided for in any other provision of this Act.

(2) Any report and recommendation of the Authority under section 72 is deemed to be a decision for the purposes of Part 10 of the High Court Rules 2016.

(3) An appeal under this section shall be made in accordance with the High Court Rules 2016, except to the extent that those rules are inconsistent with sections 127 to 134.

Section 126(2): amended, on 18 October 2016, by section 183(c) of the Senior Courts Act 2016 (2016 No 48).

Section 126(3): amended, on 18 October 2016, by section 183(c) of the Senior Courts Act 2016 (2016 No 48).

127 Notice of appeal

Before or immediately after the filing and service of a notice of appeal, the appellant shall serve a copy of the notice on—

(a) the Authority; and

(b) every other party to the proceedings; and

(c) any other person who made a submission to the Authority.

128 Right to appear and be heard on appeal

(1) A party to any proceedings, or any person who made submissions to the Authority, and who wishes to appear and be heard on an appeal to the High Court, shall give notice of his or her intention to appear to—

(a) the appellant; and

(b) the Registrar of the High Court; and

(c) the Authority.

(2) The notice to appear under subsection (1) shall be served within 10 working days after the party or the person was served with the notice of appeal.

129 Parties to appeal before High Court

(1) The parties to an appeal before the High Court are the appellant, the Authority, and any person who gives notice of intention to appear under section 128.

(2) The Registrar of the High Court shall ensure that the parties to an appeal before the High Court are served with—

(a) a copy of every document which is filed or lodged with the Registrar of the High Court relating to the appeal; and

(b) notice of the time and date set down for hearing the appeal.

130 Orders of High Court

(1) The High Court may, on application to it or on its own motion, make an order directing the Authority to lodge with the Registrar of the High Court all or any of the following things:

(a) anything in the possession of the Authority relating to the appeal; and

(b) a report recording, in respect of any matter or issue the court may specify, any of the findings of fact of the Authority which are not set out in its decision or report and recommendation; and

(c) a report setting out, so far as is reasonably practicable and in respect of any issue or matter the order may specify, any reasons or considerations to which the Authority had regard but which are not set out in its decision or report and recommendation.

(2) An application under subsection (1) shall be made,—

(a) in the case of the appellant, within 20 working days after the date on which the notice of appeal is lodged; or

(b) in the case of any other party to the appeal, within 20 working days after the date of the service on him or her of a copy of the notice of appeal.

(3) The High Court may make an order under subsection (1) only if it is satisfied that a proper determination of a point of law so requires; and the order may be made subject to such conditions as the High Court thinks fit.

131 Additional appeals on points of law

(1) When a party to an appeal, other than the appellant, wishes to contend that the decision or report and recommendation of the Authority or District Court is in error on other points of law, that party may lodge a notice to that effect with the Registrar of the High Court.

(2) The notice under subsection (1) shall be lodged within 20 working days after the date on which the respondent is served with a copy of the notice of appeal.

(3) Sections 127 to 129 apply to a notice lodged under subsection (1), with all necessary modifications.

132 Extension of time

On the application of a party to an appeal, the High Court may extend any period of time stated in sections 128 and 130.

133 Date of hearing

When a party to an appeal notifies the Registrar of the High Court—

(a) that the notice of appeal has been served on all parties to the proceedings; and

(b) either—

(i) that no application has been lodged under section 130; or

(ii) that any application lodged under section 130 has been complied with—

the appeal is ready for hearing and the Registrar shall arrange a hearing date as soon as practicable.

134 Appeals to Court of Appeal

Subpart 8 of Part 6 of the Criminal Procedure Act 2011 applies as far as applicable with the necessary modifications to a decision of the High Court under section 126 as if the decision were made under section 304 of that Act.

Section 134: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Part 9
Emergencies

135 Interpretation

In this Part, unless the context otherwise requires,—

emergency means—

(a) actual or imminent danger to human health or safety; or

(b) a danger to the environment or chattels so significant that immediate action is required to remove the danger—

arising from a hazardous substance or new organism

enforcement officer includes any constable, and any employee, volunteer, or contractor of Fire and Emergency New Zealand exercising powers under the Fire and Emergency New Zealand Act 2017.

Section 135 **enforcement officer**: amended, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

Section 135 **enforcement officer**: amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

136 Declaration of emergency

(1) Where any enforcement officer has reasonable grounds to believe that—

(a) there is an emergency; and

(b) either,—

(i) no state of emergency has been declared under the Emergency Management Act 2026; or

(ii) the emergency is not being dealt with under the Fire and Emergency New Zealand Act 2017; or

(iii) no emergency has been declared under section 144 of the Biosecurity Act 1993; or

(iv) no other enforcement officer has declared an emergency under this Act; and

(c) all or any of the powers set out in section 137 should be exercised in order to—

(i) enter any premises or dwelling; or

(ii) remove the cause of the emergency; or

(iii) stabilise the situation to limit the actual or likely adverse effects of the emergency; or

(iv) protect the health and safety of people, chattels, or the environment from the actual or likely adverse effects of any emergency,—

the enforcement officer may declare a hazardous substance or new organisms emergency.

(2) A hazardous substance or new organisms emergency shall be declared by the enforcement officer by—

(a) identifying himself or herself to any persons in the vicinity; and

(b) stating his or her authority to exercise emergency powers; and

(c) announcing the nature of the emergency and the area likely to be affected.

(3) Every enforcement officer shall notify—

(a) the person who appointed him or her as an enforcement officer, if he or she was appointed under section 98; and

(b) the Authority—

of every occasion on which a hazardous substances or new organisms emergency is declared by that officer under this section.

(4) Any emergency declared under this section shall cease—

(a) 48 hours after the time of declaration; or

(b) when a state of emergency is declared under the Emergency Management Act 2026; or

(c) when the emergency is treated by Fire and Emergency New Zealand as an emergency under the Fire and Emergency New Zealand Act 2017; or

(d) when an emergency is declared under section 144 of the Biosecurity Act 1993,—

whichever is the sooner.

(5) Where the conditions which caused the emergency to be declared under subsection (1) still exist 48 hours after the time of declaration of the emergency and the emergency has not been treated as an emergency under any of the provisions in paragraphs (b), (c), and (d) of subsection (4), 1 further declaration of emergency may be made under this Act and the provisions of subsection (4) shall apply accordingly.

(6) Any emergency declared under this section shall have effect over the area specified under subsection (2)(c).

Section 136(1)(b)(i): substituted, on 1 December 2002, by section 117 of the Civil Defence Emergency Management Act 2002 (2002 No 33).

Section 136(1)(b)(i): amended, on 4 September 2026, by section 235 of the Emergency Management Act 2026 (2026 No 53).

Section 136(1)(b)(ii): amended, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

Section 136(4)(b): substituted, on 1 December 2002, by section 117 of the Civil Defence Emergency Management Act 2002 (2002 No 33).

Section 136(4)(b): amended, on 4 September 2026, by section 235 of the Emergency Management Act 2026 (2026 No 53).

Section 136(4)(c): amended, on 1 July 2017, by section 197 of the Fire and Emergency New Zealand Act 2017 (2017 No 17).

137 Emergency powers

(1) When a hazardous substance or new organisms emergency has been declared under section 136, any enforcement officer may—

(a) enter any premises or any dwelling at any time without complying with the provisions of section 103, 103A, or 119:

(b) exercise any of the powers set out in section 103 or 103A:

(c) exercise any of the powers set out in section 119(5):

(d) direct any person to stop any activity which may contribute to the emergency:

(e) request any person, either verbally or in writing, to take any action to prevent or limit the extent of the emergency:

(f) direct any person to leave any place in the vicinity of the emergency:

(g) direct any person to refrain from entering the vicinity of the emergency:

(h) requisition any property for use in the emergency:

(i) destroy any property or any other thing in order to prevent or limit the extent of the emergency:

(j) secure the site for up to 24 hours following the decision of the enforcement officer that the immediate danger is past.

(2) If an enforcement officer enters any private property pursuant to the powers conferred by subsection (1), he or she shall advise the occupier of the property as soon as practicable.

Section 137(1)(a): amended, on 1 November 2022, by section 30(1) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 137(1)(b): amended, on 1 November 2022, by section 30(2) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Section 137(1)(b): amended, on 7 May 1999, by section 15(e) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

138 Compensation for property requisitioned or destroyed

(1) Where any enforcement officer or any person acting at the request of an enforcement officer, made under section 137(1)(e)—

(a) requisitions any property from any person for use in an emergency; or

(b) destroys any property in order to prevent or limit the extent of any emergency,—

there shall be payable, on written application by any person having an interest in the property, by the organisation whose chief executive appointed the enforcement officer or (where the enforcement officer is a constable) out of money appropriated by Parliament for the purpose, reasonable compensation for any loss or damage caused by the requisition or destruction of the property.

(2) Compensation shall not be payable under this section to any person who caused or contributed substantially to the emergency which brought about the requisition or destruction.

(3) Where there is any dispute as to the entitlement of any person to compensation under this section, or as to the amount of such compensation, or as to the liability of the Crown or any other person or organisation to pay any such compensation, the matter shall be determined by any court of competent jurisdiction.

Section 138(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

139 Protection of enforcement officers and persons

No action or proceedings shall be brought against any enforcement officer or any person acting at the request of an enforcement officer made under section 137(1)(e), in respect of any actions taken by any such officer or person under this Part where that officer or that person has acted in good faith and with reasonable care.

Part 10
Miscellaneous provisions

140 Regulations

(1) Subject to section 141, the Governor-General may from time to time, by Order in Council, make regulations for 1 or more of the following purposes:

(a) prescribing organisms as genetically modified organisms for the purpose of this Act:

(b) prescribing organisms as organisms that are not genetically modified for the purpose of this Act:

(c) prescribing organisms that are not new organisms for the purpose of this Act:

(d) prescribing the method of estimating the quantity of any organism to be imported:

(e) prescribing controls for any conditionally released new organism or any qualifying organism released with controls, to avoid or mitigate any adverse effects on the physical or chemical nature of the environment:

(f) prescribing controls for any conditionally released new organism or any qualifying organism released with controls, to avoid or mitigate illness or injury to people or animals (other than the persons or animals referred to in section 38I(4)(a) and (b)) or damage to the environment or chattels:

(g) prescribing—

(i) any species as a risk species where any subspecies, infrasubspecies, variety, strain, or cultivar of that species may have adverse effects on the health and safety of people or the environment; or

(ii) any subspecies, infrasubspecies, variety, strain, or cultivar as a risk species where that subspecies, infrasubspecies, variety, strain, or cultivar may have adverse effects on the health and safety of people or the environment:

(h) prescribing offences under this Act that constitute infringement offences against this Act:

(i) prescribing forms of infringement notices, and prescribing the infringement fees (not exceeding $3,000) for each infringement offence, which may be different fees for different offences:

(j) prescribing countries or organisations for the purpose of sections 34, 38A, and 40 (which relate to new organisms):

(k) prescribing information to be provided with any application for approval relating to new organisms:

(l) prescribing forms for the purpose of this Act that relate to new organisms and prescribing forms of search warrants under this Act:

(m) prescribing qualifications for enforcement officers appointed under section 100 who perform functions relating to new organisms:

(n) prescribing controls for by-products with hazardous properties, which result from the manufacture of any substance:

(o) prescribing damage as serious environmental damage for the purpose of section 144:

(p) prescribing prohibitions on the possession, importation, and manufacture of any hazardous substance:

(q) prescribing restrictions on the access to or use of a hazardous substance outside the workplace:

(r) prescribing restrictions on the sale of any hazardous substance:

(s) prescribing prohibitions on the sale of specified fireworks:

(t) providing for any matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

(2) Regulations may be made under subsection (1)(c) only if the Minister has considered—

(a) whether the organism has formed a self-sustaining population in New Zealand; and

(b) whether any person is attempting to manage, control, or eradicate the organism under any Act.

(3) Regulations made under subsection (1)(h) may (without limitation) prescribe as an infringement offence the failure to comply with—

(a) any control referred to in section 109(1)(e)(ii) or (v) that is specified or described in the regulations:

(b) any requirement referred to in section 109(1)(e)(vi):

(c) any condition referred to in section 109(1)(eb) that is specified or described in the regulations, including any condition that is referred to as being equivalent to a control.

(4) Regulations may be made under subsection (1)(p), (q), or (r) only if the Minister—

(a) is satisfied that the proposed regulations are desirable in the public interest; and

(b) has consulted the Authority and the Minister for Workplace Relations and Safety.

(5) Any regulations or other instrument made under this Act may provide for controls by reference to controls in regulations under any other Act.

(6) Regulations made under this section may—

(a) be of general or limited application:

(b) differ according to differences in time, place, or circumstance, or on any other basis:

(c) impose prohibitions:

(d) impose obligations and restrictions on persons:

(e) apply differently to people of a differing age or health status, and may apply only to people of a particular age or health status.

(7) Any regulation made under this section is not invalid merely because it confers a discretion on, or allows a matter to be determined or approved by, any person.

(8) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 140: replaced, on 1 December 2017, by section 48 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 140(8): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

140A Persistent organic pollutants

(1) The Governor-General may, by Order in Council, amend Schedule 2A to—

(a) add any hazardous substance that exhibits the characteristics of a persistent organic pollutant as specified in the Stockholm Convention:

(b) include or amend a use for a persistent organic pollutant:

(c) include or amend a date on the close of which a use included under paragraph (b) ceases to be allowed.

(2) An Order in Council made under subsection (1) must be consistent with New Zealand's obligations under the Stockholm Convention.

(3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 140A: inserted, on 23 December 2004, by section 15 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 140A(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

140B Schedule 1AA may be amended or substituted

(1) The Governor-General may, by Order in Council,—

(a) amend Schedule 1AA by making any amendments to the text of the Stockholm Convention set out in the schedule as are required to bring it up to date:

(b) revoke Schedule 1AA and substitute a new schedule setting out in an up-to-date form the text of the Stockholm Convention.

(2) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 140B: inserted, on 23 December 2004, by section 15 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 140B(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

141 Procedure for making Orders in Council

(1) Before making any recommendation for the purpose of making any Order in Council under this Act (other than any Order in Council or part of an Order in Council made under section 9(1), 55(6), 140(1)(i), (j), or (m), or 140B), the Minister shall—

(a) request the Authority to—

(i) do everything reasonably practicable on its part to advise all persons, who or which in its opinion may be affected by any Order in Council made in accordance with the recommendation, of the proposed terms of the Order in Council; and

(ii) give such persons a reasonable opportunity to make submissions on them to the Authority; and

(iii) advise the Minister of any submissions received, and any comments the Authority wishes to make on the submissions or the proposed Order in Council; and

(b) request the Authority to advise on the best international practices and standards for the safe management of hazardous substances and new organisms,—

and the Minister shall have regard to those submissions and comments received in accordance with paragraph (a) and to the advice received in accordance with paragraph (b).

(2) Subsection (1)(a) shall not apply in respect of any Order in Council if the Minister considers it is desirable in the public interest that the Order in Council be made urgently.

(2A) Subsection (1) does not apply in respect of an Order in Council if its sole purpose is to revoke any regulations replaced or to be replaced, or otherwise provided for, by an EPA notice or by any regulations or safe work instrument made under the Health and Safety at Work Act 2015.

(3) A failure to comply with subsection (1) shall not affect the validity of any Order in Council made under this Act.

Section 141(1): amended, on 8 November 2016, by section 11 of the Agricultural Compounds and Veterinary Medicines Amendment Act 2016 (2016 No 82).

Section 141(1): amended, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 141(1): amended, on 1 July 2011, by section 12 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

Section 141(2A): inserted, on 5 September 2015, by section 49 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

141A Incorporation of material by reference

(1) The following material may be incorporated by reference into any regulations, EPA notice, group standard, notice of transfer, or code of practice:

(a) standards, requirements, or recommended practices of national or international organisations:

(ab) standards, requirements, or recommended practices prescribed in any country or jurisdiction or by any group of countries:

(b) any document or other material that, in the opinion of the Minister (in the case of regulations) or the Authority (in the case of an EPA notice, a group standard, a notice of transfer, or a code), is too large or impractical to be printed as part of the regulations, EPA notice, group standard, notice of transfer, or code.

(2) Any such material may be so incorporated in regulations, an EPA notice, a group standard, a notice of transfer, or a code of practice either in whole or in part, and either unmodified or with such additions or variations as are specified in the regulations, EPA notice, group standard, notice of transfer, or code.

(3) Material has legal effect as part of the regulations, EPA notice, group standard, notice of transfer, or code of practice in which the material is incorporated by reference.

(4) *[Repealed]*

Section 141A: inserted, on 2 July 2001, by section 35 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 141A(1): amended, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 141A(1): amended, on 22 December 2005, by section 35(1) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 141A(1)(a): substituted, on 20 April 2010, by section 30(1) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 141A(1)(ab): inserted, on 20 April 2010, by section 30(1) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 141A(1)(b): amended, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 141A(1)(b): amended, on 22 December 2005, by section 35(2)(b) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 141A(2): amended, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 141A(2): amended, on 22 December 2005, by section 35(3)(a) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 141A(2): amended, on 22 December 2005, by section 35(3)(b) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 141A(3): substituted, on 20 April 2010, by section 30(2) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 141A(3): amended, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 141A(4): repealed, on 20 April 2010, by section 30(3) of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

141B Amendment to, or replacement of, material incorporated by reference

(1) An amendment to, or replacement of, material has legal effect as part of the regulations, EPA notice, group standard, or code of practice in which the material is incorporated by reference only if a notice is published under the Legislation Act 2019—

(a) stating that the amendment or replacement has that effect; and

(b) specifying the date of publication of the notice, or a later date, as the date on which the amendment or replacement has that effect.

(2) The following person may make the notice:

(a) the Minister, in the case of material incorporated in regulations; or

(b) the Authority, in the case of material incorporated in an EPA notice or a group standard or code of practice.

(3) The notice must not be made unless the amendment or replacement material is of the same general character as the material amended or replaced.

(4) An amendment to, or replacement of, material does not have legal effect as part of a notice of transfer in which the material is incorporated by reference.

(5) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	The Ministry of Foreign Affairs and Trade considers that, if it relates to a group standard, the secondary legislation may have international transparency obligations under the CPTPP. As a result the maker may also have to comply with s 75 of the Legislation Act 2019	LA19 ss 74(2), 75
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 141B: inserted, on 20 April 2010, by section 31 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 141B(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 141B(1): amended, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 141B(1)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 141B(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 141B(2)(b): amended, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 141B(3): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 141B(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

141C Proof of material incorporated by reference

(1) A copy of material that is incorporated by reference in regulations, including any amendment to, or replacement of, that material, must be—

(a) certified as a correct copy of the material by the chief executive of the Ministry; and

(b) retained by that chief executive or the chief executive of the Authority.

(2) A copy of material that is incorporated by reference in an EPA notice or a group standard, notice of transfer, or code of practice, including any amendment to, or replacement of, that material, must be—

(a) certified as a correct copy of the material by the chief executive of the Authority; and

(b) retained by that chief executive.

(3) The production in proceedings of a certified copy of the material is, in the absence of evidence to the contrary, sufficient evidence of the incorporation of that material in the regulations, EPA notice, group standard, notice of transfer, or code of practice.

Section 141C: inserted, on 20 April 2010, by section 31 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 141C(1)(a): amended, on 1 July 2026, by section 18 of the Environment (Disestablishment of Ministry for the Environment) Amendment Act 2026 (2026 No 22).

Section 141C(2): amended, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 141C(3): amended, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

141D Material incorporated by reference that ceases to have effect

(1) If material ceases to have effect, it ceases to have legal effect as part of the regulations, EPA notice, group standard, or code of practice in which the material is incorporated by reference only if a notice is published under the Legislation Act 2019—

(a) stating that the material ceases to have that effect; and

(b) specifying the date of publication of the notice, or a later date, as the date on which the material ceases to have that effect.

(2) The following person may make the notice:

(a) the Minister, in the case of material incorporated in regulations; or

(b) the Authority, in the case of material incorporated in an EPA notice or a group standard or code of practice.

(3) Material that ceases to have effect does not cease to have legal effect as part of a notice of transfer in which the material is incorporated by reference.

(4) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
	The Ministry of Foreign Affairs and Trade considers that, if it relates to a group standard, the secondary legislation may have international transparency obligations under the CPTPP. As a result the maker may also have to comply with s 75 of the Legislation Act 2019	LA19 ss 74(2), 75
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 141D: inserted, on 20 April 2010, by section 31 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 141D(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 141D(1): amended, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 141D(1)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 141D(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 141D(2)(b): amended, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 141D(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

141E Notice must be provided to committee responsible for examining regulations

[Repealed]

Section 141E: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

141F Requirement to consult on proposal to amend or replace material incorporated by reference

(1) The Minister must comply with subsection (2) before making a notice under section 141B stating that an amendment to, or replacement of, material has legal effect as part of the regulations in which the material is incorporated by reference.

(2) The Minister must notify and consult on the proposed amendment to, or replacement of, material in accordance with section 141 (with all necessary modifications) as if the proposed amendment or replacement were a proposed Order in Council.

(3) The chief executive of the Authority must comply with subsection (4) before making a notice under section 141B stating that an amendment to, or replacement of, material has legal effect as part of the EPA notice or group standard or code of practice in which the material is incorporated by reference.

(4) The chief executive must notify and consult on the proposed amendment to, or replacement of, material,—

(a) in the case of a group standard, in accordance with sections 53 to 61 (with all necessary modifications) as if the proposed amendment or replacement were an application under section 96B to amend a group standard; or

(b) in the case of a code of practice, in accordance with section 79(2) and (3) (with all necessary modifications) as if the proposed amendment or replacement were a code proposed for approval; or

(c) in the case of an EPA notice, in accordance with section 76C (with all necessary modifications) as if the proposed amendment or replacement were a proposal to amend an EPA notice.

(4A) However, there is no need to comply with subsection (2) or (4) in the case of an amendment to material incorporated by reference if the Minister or the chief executive, as the case may be, considers that the amendment is minor in effect or corrects a minor or technical error.

(5) A failure to comply with this section does not invalidate regulations that incorporate material by reference or an EPA notice or a group standard or code of practice that incorporates material by reference.

Section 141F: inserted, on 20 April 2010, by section 31 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 141F(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 141F(3): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 141F(3): amended, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 141F(4)(b): amended, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 141F(4)(c): inserted, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 141F(4A): inserted, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 141F(5): amended, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

141G Access to material incorporated by reference in regulations

(1) This section applies if material is incorporated by reference in regulations.

(2) The chief executive of the Ministry must—

(a) make the material referred to in subsection (5) (the **incorporated material**) available for inspection during working hours, free of charge, at—

(i) the head office of the Ministry; and

(ii) any other places that the chief executive may, at his or her discretion, determine are appropriate; and

(b) ensure that copies of the incorporated material are available for purchase by members of the public at a reasonable price; and

(c) make copies of the incorporated material available, free of charge, on an Internet site maintained by or on behalf of the Ministry, unless doing

so would infringe copyright in that material or be inconsistent with any other enactment or rule of law; and

(d) give notice in the *Gazette*—

(i) stating that the incorporated material is available for inspection during working hours, free of charge, and specifying the places at which it can be inspected; and

(ii) stating that copies of the incorporated material can be purchased and specifying the places at which they can be purchased; and

(iii) if applicable, stating that the incorporated material is available on the Internet, free of charge, and specifying the Internet site address.

(3) The chief executive—

(a) may make copies of the incorporated material available in any other way that he or she considers appropriate in the circumstances; and

(b) must, if paragraph (a) applies, give notice in the *Gazette* stating that the incorporated material is available in other ways and specifying details of where or how it can be accessed or obtained.

(4) The chief executive may comply with subsection (2)(c) by providing a hypertext link from an Internet site maintained by or on behalf of the Ministry to a copy of the incorporated material that is available, free of charge, on an Internet site that is maintained by or on behalf of someone else.

(5) The material is—

(a) material incorporated by reference in regulations:

(b) any amendment to, or replacement of, that material that is incorporated in the regulations, or the material referred to in paragraph (a) with the amendments or replacement material incorporated:

(c) if the material referred to in paragraph (a) or (b) is not in an official New Zealand language, as well as the material itself, an accurate translation in an official New Zealand language of the material.

(6) A failure to comply with this section does not invalidate regulations that incorporate material by reference.

Section 141G: inserted, on 20 April 2010, by section 31 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

Section 141G(2): amended, on 1 July 2026, by section 18 of the Environment (Disestablishment of Ministry for the Environment) Amendment Act 2026 (2026 No 22).

141GA Access to material incorporated by reference in EPA notices

(1) This section applies if material is incorporated by reference in an EPA notice.

(2) The chief executive of the Authority must—

(a) make the material referred to in subsection (5) (the **incorporated material**) available for inspection during working hours, free of charge, at—

(i) the head office of the Authority; and

(ii) any other places that the chief executive may, at his or her discretion, determine are appropriate; and

(b) ensure that copies of the incorporated material are available for purchase by members of the public at a reasonable price; and

(c) make copies of the incorporated material available, free of charge, on an Internet site maintained by or on behalf of the Authority, unless doing so would infringe copyright in that material or be inconsistent with any other enactment or rule of law; and

(d) give notice in the *Gazette*—

(i) stating that the incorporated material is available for inspection during working hours, free of charge, and specifying the places at which it can be inspected; and

(ii) stating that copies of the incorporated material can be purchased and specifying the places at which they can be purchased; and

(iii) if applicable, stating that the incorporated material is available on the Internet, free of charge, and specifying the Internet site address.

(3) The chief executive—

(a) may make copies of the incorporated material available in any other way that he or she considers appropriate in the circumstances; and

(b) must, if paragraph (a) applies, give notice in the *Gazette* stating that the incorporated material is available in other ways and specifying details of where or how it can be accessed or obtained.

(4) The chief executive may comply with subsection (2)(c) by providing a hypertext link from an Internet site maintained by or on behalf of the Authority to a copy of the incorporated material that is available, free of charge, on an Internet site that is maintained by or on behalf of someone else.

(5) The material is—

(a) material incorporated by reference in an EPA notice:

(b) any amendment to, or replacement of, that material that is incorporated in an EPA notice, or the material referred to in paragraph (a) with the amendments or replacement material incorporated:

(c) if the material referred to in paragraph (a) or (b) is not in an official New Zealand language, as well as the material itself, an accurate translation in an official New Zealand language of the material.

(6) A failure to comply with this section does not invalidate an EPA notice that incorporates material by reference.

Section 141GA: inserted, on 5 September 2015, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

141H Access to material incorporated by reference in group standard, notice of transfer, or code of practice

(1) This section applies if material is incorporated by reference in a group standard, notice of transfer, or code of practice.

(2) The chief executive of the Authority must—

(a) make the material referred to in subsection (3) (the **incorporated material**) available for inspection by members of the public free of charge; and

(b) ensure that copies of the incorporated material are available for purchase by members of the public at a reasonable price; and

(c) give notice in the *Gazette*—

(i) stating that the incorporated material is available for inspection free of charge and specifying the places at which it can be inspected; and

(ii) stating that copies of the incorporated material can be purchased and specifying the places at which they can be purchased.

(3) The material is—

(a) material incorporated by reference in a group standard, notice of transfer, or code of practice:

(b) any amendment to, or replacement of, that material that is incorporated in the group standard or code of practice, or the material referred to in paragraph (a) with the amendments or replacement material incorporated:

(c) if the material referred to in paragraph (a) or (b) is not in an official New Zealand language, as well as the material itself, an accurate translation in an official New Zealand language of the material.

(4) A failure to comply with this section does not invalidate a group standard, notice of transfer, or code of practice that incorporates material by reference.

Section 141H: inserted, on 20 April 2010, by section 31 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

141I Application of Legislation Act 2019

(1) Subpart 1 of Part 3 and section 114 of the Legislation Act 2019 do not apply to material that is incorporated by reference in regulations, EPA notices, group standards, notices of transfer, or codes of practice, or to any amendment to, or replacement of, that material merely because it is incorporated.

(2) Subparts 1 and 2 of Part 5 of the Legislation Act 2019 apply to regulations, EPA notices, group standards, and notices of transfer that incorporate material by reference, but do not apply to codes of practice that incorporate material by reference.

Section 141I: replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

142 Relationship to other Acts

(1) Nothing in this Act shall affect the requirements of the Biosecurity Act 1993 in relation to any organism.

(2) *[Repealed]*

(3) *[Repealed]*

(4) Nothing in this Act shall apply to any resource consent, being—

(a) a land use consent relating to the storage, use, disposal, or transportation of any hazardous substance; or

(b) a coastal permit to do something that would otherwise contravene section 15 of the Resource Management Act 1991; or

(c) a discharge permit,—

where that resource consent was granted before the coming into force of any regulations made under this Act (other than regulations made under Parts 11 to 16) until such time as the conditions on the resource consent are reviewed in accordance with section 128 of the Resource Management Act 1991.

(5) For the purposes of this section, **resource consent** has the same meaning as in the Resource Management Act 1991.

(6) Any controls prescribed under any other Act for any hazardous substance shall not contravene the provisions of EPA notices issued under sections 75 and 76 unless—

(a) there is a provision in that other Act that expressly provides that controls made under that other Act for specified purposes may contravene the provisions of EPA notices issued under this Act; and

(b) the controls are made for the purposes provided for in that Act.

(7) Nothing in this Act affects the requirements of the Health and Safety at Work Act 2015, or of any regulations or safe work instruments made under that Act, that relate to hazardous substances in a workplace.

Section 142(2): repealed, on 19 April 2017, by section 123 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 142(3): repealed, on 19 April 2017, by section 123 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Section 142(4): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 142(4)(b): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 142(5): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 142(6): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 142(6)(a): amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Section 142(7): inserted, on 1 December 2017, by section 50 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

142A Exemptions from approval requirements

[Expired]

Section 142A: expired, on 2 July 2006, by section 142A(6).

143 Notification of hazardous substances injuries

(1) In this section,—

hospital means a hospital care institution within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001

medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine.

(2) If any person, upon admission to a hospital, is found to be suffering from any injury caused by a hazardous substance, the person for the time being in charge of the hospital shall give notice of the injury to the Medical Officer of Health.

(2A) If a medical practitioner finds that a person who is not admitted to a hospital is suffering from an injury caused by a hazardous substance, the medical practitioner must give notice of the injury to the Medical Officer of Health.

(3) The Medical Officer of Health shall ensure that information about any injury notified in accordance with subsection (2) or subsection (2A) (not being information which identifies any individual person) is supplied to the Minister of Health.

Section 143(1): substituted, on 22 December 2005, by section 36(1) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 143(2A): inserted, on 22 December 2005, by section 36(2) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

Section 143(3): amended, on 22 December 2005, by section 36(3) of the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123).

144 Reporting of incidents

(1) Every person in charge of a substance involved in an incident resulting in death, or a notifiable injury or illness as defined by section 23 of the Health and Safety at Work Act 2015, or serious environment damage must, unless an enforcement officer attended the incident or subsection (2) applies, report that incident to an enforcement officer.

(2) No person shall be obliged to report an incident to an enforcement officer under this Act where the incident is required to be reported under any other Act.

Section 144(1): replaced, on 1 December 2017, by section 51 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

145 Ombudsmen Act 1975 amended

[Repealed]

Section 145: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

146 Authority to be Crown entity

[Repealed]

Section 146: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

147 Additional matters to be included in statement of intent

(1) The Authority shall include in its statement of intent under section 139 of the Crown Entities Act 2004:

(a) *[Repealed]*

(b) *[Repealed]*

(c) *[Repealed]*

(d) information on decisions under section 62:

(e) any new borrowings or financial leases, or similar liabilities that the Authority intends to incur during that year:

(f) a statement of the consideration given by the Authority when granting each approval of a hazardous substance of the reasons for and against imposing an environmental user charge as a control.

(2) *[Repealed]*

(3) *[Repealed]*

Section 147(1): amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 147(1)(a): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 147(1)(b): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 147(1)(c): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 147(2): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 147(3): repealed, on 20 April 2010, by section 32 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

148 Additional reporting requirements

The annual report under section 150 of the Crown Entities Act 2004 must include the following additional matters:

(a) *[Repealed]*

(b) *[Repealed]*

(c) information showing the number and type of incidents caused by inadequate management of hazardous substances or new organisms:

(d) information on decisions under section 62:

(e) any other matters the Authority considers to be significant in the management and use of hazardous substances and new organisms, including the investigation and use of environmental user charges.

Section 148: amended, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 148(a): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 148(b): repealed, on 20 April 2010, by section 33 of the Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18).

149 Amendments to other Acts

The enactments specified in Schedule 4 are hereby amended in the manner indicated in that schedule.

150 Repeals and revocations

(1) The enactments specified in Schedule 5 are hereby repealed.

(2) The regulations and orders specified in Schedule 6 are hereby revoked.

Part 11
Transitional provisions—General

[Expired]

Part 11: expired, on 2 July 2006, by section 152(1)(b).

151 Interpretation

[Expired]

Section 151: expired, on 2 July 2006, by section 152(1)(b).

152 Expiry of transitional provisions

[Expired]

Section 152: expired, on 2 July 2006, by section 152(1)(b).

152A Expiry of transitional provisions in relation to persistent organic pollutants

[Expired]

Section 152A: expired, on 2 July 2006, by section 152(1)(b).

153 Exemption in case of licence application

[Expired]

Section 153: expired, on 2 July 2006, by section 152(1)(b).

154 Exemptions from regulations and provisions of Parts 11 to 16

[Expired]

Section 154: expired, on 2 July 2006, by section 152(1)(b).

155 Applications made under transitional provisions

[Expired]

Section 155: expired, on 2 July 2006, by section 152(1)(b).

156 Offences against Parts 11 to 16

[Expired]

Section 156: expired, on 2 July 2006, by section 152(1)(b).

157 Defences

[Expired]

Section 157: expired, on 2 July 2006, by section 152(1)(b).

158 Suspension and cancellation of licences

[Expired]

Section 158: expired, on 2 July 2006, by section 152(1)(b).

159 Continuation of Pesticides Board and Toxic Substances Board

[Expired]

Section 159: expired, on 2 July 2006, by section 152(1)(b).

160 Regulations relating to transitional provisions

[Expired]

Section 160: expired, on 2 July 2006, by section 152(1)(b).

160A Notices of transfer relating to transitional matters

[Expired]

Section 160A: expired, on 2 July 2006, by section 152(1)(b).

160B Controls may be imposed for purposes of notice of transfer

[Expired]

Section 160B: expired, on 2 July 2006, by section 152(1)(b).

161 Regulations saved

[Expired]

Section 161: expired, on 2 July 2006, by section 152(1)(b).

162 Reassessment of substances and organisms

[Expired]

Section 162: expired, on 2 July 2006, by section 152(1)(b).

Part 12
Transitional provisions—Pesticides

[Expired]

Part 12: expired, on 2 July 2006, by section 152(1)(b).

163 Interpretation

[Expired]

Section 163: expired, on 2 July 2006, by section 152(1)(b).

164 Application of this Part

[Expired]

Section 164: expired, on 2 July 2006, by section 152(1)(b).

164A Protection of information

[Expired]

Section 164A: expired, on 2 July 2006, by section 152(1)(b).

165 Sale, importation, and use of pesticides

[Expired]

Section 165: expired, on 2 July 2006, by section 152(1)(b).

166 Labelling

[Expired]

Section 166: expired, on 2 July 2006, by section 152(1)(b).

167 Advertisements

[Expired]

Section 167: expired, on 2 July 2006, by section 152(1)(b).

168 Review and revocation of registration

[Expired]

Section 168: expired, on 2 July 2006, by section 152(1)(b).

169 Transfer of proprietors' rights

[Expired]

Section 169: expired, on 2 July 2006, by section 152(1)(b).

170 Sale of pesticides in bulk

[Expired]

Section 170: expired, on 2 July 2006, by section 152(1)(b).

171 Warranties

[Expired]

Section 171: expired, on 2 July 2006, by section 152(1)(b).

172 Pesticide register

[Expired]

Section 172: expired, on 2 July 2006, by section 152(1)(b).

173 Regulations relating to all pesticides

[Expired]

Section 173: expired, on 2 July 2006, by section 152(1)(b).

174 Regulations relating to controlled pesticides

[Expired]

Section 174: expired, on 2 July 2006, by section 152(1)(b).

175 Interpretation

[Expired]

Section 175: expired, on 2 July 2006, by section 152(1)(b).

176 Restrictions on use of controlled pesticides

[Expired]

Section 176: expired, on 2 July 2006, by section 152(1)(b).

177 Qualifications for approved operator licence

[Expired]

Section 177: expired, on 2 July 2006, by section 152(1)(b).

178 Dealing with applications

[Expired]

Section 178: expired, on 2 July 2006, by section 152(1)(b).

179 Effect of licences

[Expired]

Section 179: expired, on 2 July 2006, by section 152(1)(b).

180 Duration of licences

[Expired]

Section 180: expired, on 2 July 2006, by section 152(1)(b).

181 Variation of terms and conditions of licences

[Expired]

Section 181: expired, on 2 July 2006, by section 152(1)(b).

182 Register of approved operators

[Expired]

Section 182: expired, on 2 July 2006, by section 152(1)(b).

Part 13
Transitional provisions—Toxic substances

[Expired]

Part 13: expired, on 2 July 2006, by section 152(1)(b).

183 Interpretation

[Expired]

Section 183: expired, on 2 July 2006, by section 152(1)(b).

184 Application of this Part

[Expired]

Section 184: expired, on 2 July 2006, by section 152(1)(b).

184A Protection of information

[Expired]

Section 184A: expired, on 2 July 2006, by section 152(1)(b).

185 Restrictions on sales of deadly poisons and dangerous poisons

[Expired]

Section 185: expired, on 2 July 2006, by section 152(1)(b).

186 Sale and packing of poisons

[Expired]

Section 186: expired, on 2 July 2006, by section 152(1)(b).

187 Further restrictions on sale of poisons

[Expired]

Section 187: expired, on 2 July 2006, by section 152(1)(b).

188 Containers

[Expired]

Section 188: expired, on 2 July 2006, by section 152(1)(b).

189 Custody of poisons and harmful substances

[Expired]

Section 189: expired, on 2 July 2006, by section 152(1)(b).

190 Storage of poisons and harmful substances

[Expired]

Section 190: expired, on 2 July 2006, by section 152(1)(b).

191 Packing of poisons and harmful substances

[Expired]

Section 191: expired, on 2 July 2006, by section 152(1)(b).

192 Restriction on possession and use of deadly poisons and dangerous poisons

[Expired]

Section 192: expired, on 2 July 2006, by section 152(1)(b).

193 Control of advertisements

[Expired]

Section 193: expired, on 2 July 2006, by section 152(1)(b).

194 Disposal of surplus poisons to other user or licensee

[Expired]

Section 194: expired, on 2 July 2006, by section 152(1)(b).

195 Exemptions for pharmacists

[Expired]

Section 195: expired, on 2 July 2006, by section 152(1)(b).

196 Exemptions for veterinarians

[Expired]

Section 196: expired, on 2 July 2006, by section 152(1)(b).

197 Exemptions for certain other persons

[Expired]

Section 197: expired, on 2 July 2006, by section 152(1)(b).

198 Exemptions for agents and employees

[Expired]

Section 198: expired, on 2 July 2006, by section 152(1)(b).

199 Applications for licences

[Expired]

Section 199: expired, on 2 July 2006, by section 152(1)(b).

200 Dealing with applications

[Expired]

Section 200: expired, on 2 July 2006, by section 152(1)(b).

201 Effect of licences

[Expired]

Section 201: expired, on 2 July 2006, by section 152(1)(b).

202 Duration of licences

[Expired]

Section 202: expired, on 2 July 2006, by section 152(1)(b).

203 Records of sales

[Expired]

Section 203: expired, on 2 July 2006, by section 152(1)(b).

204 Register

[Expired]

Section 204: expired, on 2 July 2006, by section 152(1)(b).

205 Interpretation

[Expired]

Section 205: expired, on 2 July 2006, by section 152(1)(b).

206 Packing of imported toxic substances

[Expired]

Section 206: expired, on 2 July 2006, by section 152(1)(b).

207 Notice to be given of imported toxic substances

[Expired]

Section 207: expired, on 2 July 2006, by section 152(1)(b).

208 Application of toxic substances regulations

[Expired]

Section 208: expired, on 2 July 2006, by section 152(1)(b).

Part 14
Transitional provisions—Dangerous goods

[Expired]

Part 14: expired, on 2 July 2006, by section 152(1)(b).

209 Interpretation

[Expired]

Section 209: expired, on 2 July 2006, by section 152(1)(b).

210 Application of this Part

[Expired]

Section 210: expired, on 2 July 2006, by section 152(1)(b).

211 Restrictions on storage and use of dangerous goods

[Expired]

Section 211: expired, on 2 July 2006, by section 152(1)(b).

212 Restrictions on containers

[Expired]

Section 212: expired, on 2 July 2006, by section 152(1)(b).

213 Containers of dangerous goods to be specially marked

[Expired]

Section 213: expired, on 2 July 2006, by section 152(1)(b).

214 Pumps for reselling dangerous goods

[Expired]

Section 214: expired, on 2 July 2006, by section 152(1)(b).

215 Restrictions on use of gases in balloons

[Expired]

Section 215: expired, on 2 July 2006, by section 152(1)(b).

216 Phosphorus matches

[Expired]

Section 216: expired, on 2 July 2006, by section 152(1)(b).

217 Licensing of premises for storage of dangerous goods

[Expired]

Section 217: expired, on 2 July 2006, by section 152(1)(b).

218 Provisional licences

[Expired]

Section 218: expired, on 2 July 2006, by section 152(1)(b).

219 General provisions as to licences

[Expired]

Section 219: expired, on 2 July 2006, by section 152(1)(b).

220 Renewal of licences

[Expired]

Section 220: expired, on 2 July 2006, by section 152(1)(b).

221 Continuing application of dangerous goods regulations

[Expired]

Section 221: expired, on 2 July 2006, by section 152(1)(b).

Part 15
Transitional provisions—Explosives

[Expired]

Part 15: expired, on 2 July 2006, by section 152(1)(b).

222 Interpretation

[Expired]

Section 222: expired, on 2 July 2006, by section 152(1)(b).

223 Classification of explosives

[Expired]

Section 223: expired, on 2 July 2006, by section 152(1)(b).

224 Application of this Part

[Expired]

Section 224: expired, on 2 July 2006, by section 152(1)(b).

225 Importation of explosives

[Expired]

Section 225: expired, on 2 July 2006, by section 152(1)(b).

226 Permit for importation of fireworks

[Expired]

Section 226: expired, on 2 July 2006, by section 152(1)(b).

227 Licence to manufacture explosives

[Expired]

Section 227: expired, on 2 July 2006, by section 152(1)(b).

228 Factory not to be altered without consent of Authority

[Expired]

Section 228: expired, on 2 July 2006, by section 152(1)(b).

229 Fireworks not to be sold to persons under 14 years of age

[Expired]

Section 229: expired, on 2 July 2006, by section 152(1)(b).

230 Application of following sections

[Expired]

Section 230: expired, on 2 July 2006, by section 152(1)(b).

231 Explosives not to be sold without licence

[Expired]

Section 231: expired, on 2 July 2006, by section 152(1)(b).

232 Restriction on sale of fireworks

[Expired]

Section 232: expired, on 2 July 2006, by section 152(1)(b).

233 Sale of explosives

[Expired]

Section 233: expired, on 2 July 2006, by section 152(1)(b).

234 Storage of explosives

[Expired]

Section 234: expired, on 2 July 2006, by section 152(1)(b).

235 Certain explosives not to be carried without consent of Authority

[Expired]

Section 235: expired, on 2 July 2006, by section 152(1)(b).

236 Licence required to carry certain explosives

[Expired]

Section 236: expired, on 2 July 2006, by section 152(1)(b).

237 Carriage of explosives in vehicles or vessels carrying passengers

[Expired]

Section 237: expired, on 2 July 2006, by section 152(1)(b).

238 Firework displays

[Expired]

Section 238: expired, on 2 July 2006, by section 152(1)(b).

239 Private storage

[Expired]

Section 239: expired, on 2 July 2006, by section 152(1)(b).

240 Conditions of licence

[Expired]

Section 240: expired, on 2 July 2006, by section 152(1)(b).

241 Public magazines

[Expired]

Section 241: expired, on 2 July 2006, by section 152(1)(b).

242 Private magazines

[Expired]

Section 242: expired, on 2 July 2006, by section 152(1)(b).

243 Private magazine not to be altered without consent

[Expired]

Section 243: expired, on 2 July 2006, by section 152(1)(b).

244 Danger buildings

[Expired]

Section 244: expired, on 2 July 2006, by section 152(1)(b).

245 Notices on danger buildings

[Expired]

Section 245: expired, on 2 July 2006, by section 152(1)(b).

246 Repairs or alterations to danger buildings

[Expired]

Section 246: expired, on 2 July 2006, by section 152(1)(b).

247 Protective clothing, etc

[Expired]

Section 247: expired, on 2 July 2006, by section 152(1)(b).

248 Employment of young persons in danger buildings

[Expired]

Section 248: expired, on 2 July 2006, by section 152(1)(b).

249 Packing and marking of explosives

[Expired]

Section 249: expired, on 2 July 2006, by section 152(1)(b).

250 Handling of explosives

[Expired]

Section 250: expired, on 2 July 2006, by section 152(1)(b).

251 Abandonment or disposal of explosives

[Expired]

Section 251: expired, on 2 July 2006, by section 152(1)(b).

252 Damaged, defective, or unsafe explosives

[Expired]

Section 252: expired, on 2 July 2006, by section 152(1)(b).

253 Continuation of regulations

[Expired]

Section 253: expired, on 2 July 2006, by section 152(1)(b).

Part 16
Transitional provisions—New organisms

[Expired]

Part 16: expired, on 29 July 2001, by section 152(1)(a).

Animals

[Expired]

Heading: expired, on 29 July 2001, by section 152(1)(a).

254 Animals

[Expired]

Section 254: expired, on 29 July 2001, by section 152(1)(a).

255 Zoological gardens

[Expired]

Section 255: expired, on 29 July 2001, by section 152(1)(a).

256 Hamsters

[Expired]

Section 256: expired, on 29 July 2001, by section 152(1)(a).

257 Approvals for genetically modified organisms

[Expired]

Section 257: expired, on 29 July 2001, by section 152(1)(a).

Plants

[Expired]

Heading: expired, on 29 July 2001, by section 152(1)(a).

258 Import permits

[Expired]

Section 258: expired, on 29 July 2001, by section 152(1)(a).

259 Micro-organisms lawfully in use

[Expired]

Section 259: expired, on 29 July 2001, by section 152(1)(a).

Schedule 1AA
Stockholm Convention on Persistent Organic Pollutants

s 2(1)

Schedule 1AA: inserted, on 23 December 2004, by section 18 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

The Parties to this Convention,

Recognizing that persistent organic pollutants possess toxic properties, resist degradation, bioaccumulate and are transported, through air, water and migratory species, across international boundaries and deposited far from their place of release, where they accumulate in terrestrial and aquatic ecosystems,

Aware of the health concerns, especially in developing countries, resulting from local exposure to persistent organic pollutants, in particular impacts upon women and, through them, upon future generations,

Acknowledging that the Arctic ecosystems and indigenous communities are particularly at risk because of the biomagnification of persistent organic pollutants and that contamination of their traditional foods is a public health issue,

Conscious of the need for global action on persistent organic pollutants,

Mindful of decision 19/13 C of 7 February 1997 of the Governing Council of the United Nations Environment Programme to initiate international action to protect human health and the environment through measures which will reduce and/or eliminate emissions and discharges of persistent organic pollutants,

Recalling the pertinent provisions of the relevant international environmental conventions, especially the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal including the regional agreements developed within the framework of its Article 11,

Recalling also the pertinent provisions of the Rio Declaration on Environment and Development and Agenda 21,

Acknowledging that precaution underlies the concerns of all the Parties and is embedded within this Convention,

Recognizing that this Convention and other international agreements in the field of trade and the environment are mutually supportive,

Reaffirming that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,

Taking into account the circumstances and particular requirements of developing countries, in particular the least developed among them, and countries with economies in transition, especially the need to strengthen their national capabilities for the management of chemicals, including through the transfer of technology, the provision of financial and technical assistance and the promotion of cooperation among the Parties,

Taking full account of the Programme of Action for the Sustainable Development of Small Island Developing States, adopted in Barbados on 6 May 1994,

Noting the respective capabilities of developed and developing countries, as well as the common but differentiated responsibilities of States as set forth in Principle 7 of the Rio Declaration on Environment and Development,

Recognizing the important contribution that the private sector and non-governmental organizations can make to achieving the reduction and/or elimination of emissions and discharges of persistent organic pollutants,

Underlining the importance of manufacturers of persistent organic pollutants taking responsibility for reducing adverse effects caused by their products and for providing information to users, Governments and the public on the hazardous properties of those chemicals,

Conscious of the need to take measures to prevent adverse effects caused by persistent organic pollutants at all stages of their life cycle,

Reaffirming Principle 16 of the Rio Declaration on Environment and Development which states that national authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment,

Encouraging Parties not having regulatory and assessment schemes for pesticides and industrial chemicals to develop such schemes,

Recognizing the importance of developing and using environmentally sound alternative processes and chemicals,

Determined to protect human health and the environment from the harmful impacts of persistent organic pollutants,

Have agreed as follows:

Article 1
Objective

Mindful of the precautionary approach as set forth in Principle 15 of the Rio Declaration on Environment and Development, the objective of this Convention is to protect human health and the environment from persistent organic pollutants.

Article 2
Definitions

For the purposes of this Convention:

(a) "Party" means a State or regional economic integration organization that has consented to be bound by this Convention and for which the Convention is in force;

(b) "Regional economic integration organization" means an organization constituted by sovereign States of a given region to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to this Convention;

(c) "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article 3
Measures to reduce or eliminate releases from intentional production and use

1. Each Party shall:

   (a) Prohibit and/or take the legal and administrative measures necessary to eliminate:

      (i) Its production and use of the chemicals listed in Annex A subject to the provisions of that Annex; and

      (ii) Its import and export of the chemicals listed in Annex A in accordance with the provisions of paragraph 2; and

   (b) Restrict its production and use of the chemicals listed in Annex B in accordance with the provisions of that Annex.

2. Each Party shall take measures to ensure:

   (a) That a chemical listed in Annex A or Annex B is imported only:

      (i) For the purpose of environmentally sound disposal as set forth in paragraph 1(d) of Article 6; or

      (ii) For a use or purpose which is permitted for that Party under Annex A or Annex B;

   (b) That a chemical listed in Annex A for which any production or use specific exemption is in effect or a chemical listed in Annex B for which any production or use specific exemption or acceptable purpose is in effect, taking into account any relevant provisions in existing international prior informed consent instruments, is exported only:

      (i) For the purpose of environmentally sound disposal as set forth in paragraph 1(d) of Article 6;

(ii) To a Party which is permitted to use that chemical under Annex A or Annex B; or

(iii) To a State not Party to this Convention which has provided an annual certification to the exporting Party. Such certification shall specify the intended use of the chemical and include a statement that, with respect to that chemical, the importing State is committed to:

a. Protect human health and the environment by taking the necessary measures to minimize or prevent releases;

b. Comply with the provisions of paragraph 1 of Article 6; and

c. Comply, where appropriate, with the provisions of paragraph 2 of Part II of Annex B.

The certification shall also include any appropriate supporting documentation, such as legislation, regulatory instruments, or administrative or policy guidelines. The exporting Party shall transmit the certification to the Secretariat within sixty days of receipt.

(c) That a chemical listed in Annex A, for which production and use specific exemptions are no longer in effect for any Party, is not exported from it except for the purpose of environmentally sound disposal as set forth in paragraph 1(d) of Article 6;

(d) For the purposes of this paragraph, the term "State not Party to this Convention" shall include, with respect to a particular chemical, a State or regional economic integration organization that has not agreed to be bound by the Convention with respect to that chemical.

3. Each Party that has one or more regulatory and assessment schemes for new pesticides or new industrial chemicals shall take measures to regulate with the aim of preventing the production and use of new pesticides or new industrial chemicals which, taking into consideration the criteria in paragraph 1 of Annex D, exhibit the characteristics of persistent organic pollutants.

4. Each Party that has one or more regulatory and assessment schemes for pesticides or industrial chemicals shall, where appropriate, take into consideration within these schemes the criteria in paragraph 1 of Annex D when conducting assessments of pesticides or industrial chemicals currently in use.

5. Except as otherwise provided in this Convention, paragraphs 1 and 2 shall not apply to quantities of a chemical to be used for laboratory-scale research or as a reference standard.

6. Any Party that has a specific exemption in accordance with Annex A or a specific exemption or an acceptable purpose in accordance with Annex B shall take appropriate measures to ensure that any production or use under such exemption or purpose is carried out in a manner that prevents or mini-

mizes human exposure and release into the environment. For exempted uses or acceptable purposes that involve intentional release into the environment under conditions of normal use, such release shall be to the minimum extent necessary, taking into account any applicable standards and guidelines.

Article 4
Register of specific exemptions

1. A Register is hereby established for the purpose of identifying the Parties that have specific exemptions listed in Annex A or Annex B. It shall not identify Parties that make use of the provisions in Annex A or Annex B that may be exercised by all Parties. The Register shall be maintained by the Secretariat and shall be available to the public.
2. The Register shall include:
   (a) A list of the types of specific exemptions reproduced from Annex A and Annex B;
   (b) A list of the Parties that have a specific exemption listed under Annex A or Annex B; and
   (c) A list of the expiry dates for each registered specific exemption.
3. Any State may, on becoming a Party, by means of a notification in writing to the Secretariat, register for one or more types of specific exemptions listed in Annex A or Annex B.
4. Unless an earlier date is indicated in the Register by a Party, or an extension is granted pursuant to paragraph 7, all registrations of specific exemptions shall expire five years after the date of entry into force of this Convention with respect to a particular chemical.
5. At its first meeting, the Conference of the Parties shall decide upon its review process for the entries in the Register.
6. Prior to a review of an entry in the Register, the Party concerned shall submit a report to the Secretariat justifying its continuing need for registration of that exemption. The report shall be circulated by the Secretariat to all Parties. The review of a registration shall be carried out on the basis of all available information. Thereupon, the Conference of the Parties may make such recommendations to the Party concerned as it deems appropriate.
7. The Conference of the Parties may, upon request from the Party concerned, decide to extend the expiry date of a specific exemption for a period of up to five years. In making its decision, the Conference of the Parties shall take due account of the special circumstances of the developing country Parties and Parties with economies in transition.
8. A Party may, at any time, withdraw an entry from the Register for a specific exemption upon written notification to the Secretariat. The withdrawal shall take effect on the date specified in the notification.

9. When there are no longer any Parties registered for a particular type of specific exemption, no new registrations may be made with respect to it.

Article 5
Measures to reduce or eliminate releases from unintentional production

Each Party shall at a minimum take the following measures to reduce the total releases derived from anthropogenic sources of each of the chemicals listed in Annex C, with the goal of their continuing minimization and, where feasible, ultimate elimination:

(a) Develop an action plan or, where appropriate, a regional or subregional action plan within two years of the date of entry into force of this Convention for it, and subsequently implement it as part of its implementation plan specified in Article 7, designed to identify, characterize and address the release of the chemicals listed in Annex C and to facilitate implementation of subparagraphs (b) to (e). The action plan shall include the following elements:

(i) An evaluation of current and projected releases, including the development and maintenance of source inventories and release estimates, taking into consideration the source categories identified in Annex C;

(ii) An evaluation of the efficacy of the laws and policies of the Party relating to the management of such releases;

(iii) Strategies to meet the obligations of this paragraph, taking into account the evaluations in (i) and (ii);

(iv) Steps to promote education and training with regard to, and awareness of, those strategies;

(v) A review every five years of those strategies and of their success in meeting the obligations of this paragraph; such reviews shall be included in reports submitted pursuant to Article 15;

(vi) A schedule for implementation of the action plan, including for the strategies and measures identified therein;

(b) Promote the application of available, feasible and practical measures that can expeditiously achieve a realistic and meaningful level of release reduction or source elimination;

(c) Promote the development and, where it deems appropriate, require the use of substitute or modified materials, products and processes to prevent the formation and release of the chemicals listed in Annex C, taking into consideration the general guidance on prevention and release reduction measures in Annex C and guidelines to be adopted by decision of the Conference of the Parties;

(d) Promote and, in accordance with the implementation schedule of its action plan, require the use of best available techniques for new sources within source categories which a Party has identified as warranting such action in its action

plan, with a particular initial focus on source categories identified in Part II of Annex C. In any case, the requirement to use best available techniques for new sources in the categories listed in Part II of that Annex shall be phased in as soon as practicable but no later than four years after the entry into force of the Convention for that Party. For the identified categories, Parties shall promote the use of best environmental practices. When applying best available techniques and best environmental practices, Parties should take into consideration the general guidance on prevention and release reduction measures in that Annex and guidelines on best available techniques and best environmental practices to be adopted by decision of the Conference of the Parties;

(e) Promote, in accordance with its action plan, the use of best available techniques and best environmental practices:

(i) For existing sources, within the source categories listed in Part II of Annex C and within source categories such as those in Part III of that Annex; and

(ii) For new sources, within source categories such as those listed in Part III of Annex C which a Party has not addressed under subparagraph (d).

When applying best available techniques and best environmental practices, Parties should take into consideration the general guidance on prevention and release reduction measures in Annex C and guidelines on best available techniques and best environmental practices to be adopted by decision of the Conference of the Parties;

(f) For the purposes of this paragraph and Annex C:

(i) "Best available techniques" means the most effective and advanced stage in the development of activities and their methods of operation which indicate the practical suitability of particular techniques for providing in principle the basis for release limitations designed to prevent and, where that is not practicable, generally to reduce releases of chemicals listed in Part I of Annex C and their impact on the environment as a whole. In this regard:

(ii) "Techniques" includes both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned;

(iii) "Available" techniques means those techniques that are accessible to the operator and that are developed on a scale that allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages; and

(iv) "Best" means most effective in achieving a high general level of protection of the environment as a whole;

(v) "Best environmental practices" means the application of the most appropriate combination of environmental control measures and strategies;

(vi) "New source" means any source of which the construction or substantial modification is commenced at least one year after the date of:

a. Entry into force of this Convention for the Party concerned; or

b. Entry into force for the Party concerned of an amendment to Annex C where the source becomes subject to the provisions of this Convention only by virtue of that amendment.

(g) Release limit values or performance standards may be used by a Party to fulfill its commitments for best available techniques under this paragraph.

Article 6

Measures to reduce or eliminate releases from stockpiles and wastes

1. In order to ensure that stockpiles consisting of or containing chemicals listed either in Annex A or Annex B and wastes, including products and articles upon becoming wastes, consisting of, containing or contaminated with a chemical listed in Annex A, B or C, are managed in a manner protective of human health and the environment, each Party shall:

(a) Develop appropriate strategies for identifying:

(i) Stockpiles consisting of or containing chemicals listed either in Annex A or Annex B; and

(ii) Products and articles in use and wastes consisting of, containing or contaminated with a chemical listed in Annex A, B or C;

(b) Identify, to the extent practicable, stockpiles consisting of or containing chemicals listed either in Annex A or Annex B on the basis of the strategies referred to in subparagraph (a);

(c) Manage stockpiles, as appropriate, in a safe, efficient and environmentally sound manner. Stockpiles of chemicals listed either in Annex A or Annex B, after they are no longer allowed to be used according to any specific exemption specified in Annex A or any specific exemption or acceptable purpose specified in Annex B, except stockpiles which are allowed to be exported according to paragraph 2 of Article 3, shall be deemed to be waste and shall be managed in accordance with subparagraph (d);

(d) Take appropriate measures so that such wastes, including products and articles upon becoming wastes, are:

(i) Handled, collected, transported and stored in an environmentally sound manner;

(ii) Disposed of in such a way that the persistent organic pollutant content is destroyed or irreversibly transformed so that they do not exhibit the characteristics of persistent organic pollutants or otherwise disposed of in an environmentally sound manner

when destruction or irreversible transformation does not represent the environmentally preferable option or the persistent organic pollutant content is low, taking into account international rules, standards, and guidelines, including those that may be developed pursuant to paragraph 2, and relevant global and regional regimes governing the management of hazardous wastes;

(iii) Not permitted to be subjected to disposal operations that may lead to recovery, recycling, reclamation, direct reuse or alternative uses of persistent organic pollutants; and

(iv) Not transported across international boundaries without taking into account relevant international rules, standards and guidelines;

(e) Endeavour to develop appropriate strategies for identifying sites contaminated by chemicals listed in Annex A, B or C; if remediation of those sites is undertaken it shall be performed in an environmentally sound manner.

2. The Conference of the Parties shall cooperate closely with the appropriate bodies of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal to, inter alia:

(a) Establish levels of destruction and irreversible transformation necessary to ensure that the characteristics of persistent organic pollutants as specified in paragraph 1 of Annex D are not exhibited;

(b) Determine what they consider to be the methods that constitute environmentally sound disposal referred to above; and

(c) Work to establish, as appropriate, the concentration levels of the chemicals listed in Annexes A, B and C in order to define the low persistent organic pollutant content referred to in paragraph 1(d)(ii).

Article 7
Implementation plans

1. Each Party shall:

(a) Develop and endeavour to implement a plan for the implementation of its obligations under this Convention;

(b) Transmit its implementation plan to the Conference of the Parties within two years of the date on which this Convention enters into force for it; and

(c) Review and update, as appropriate, its implementation plan on a periodic basis and in a manner to be specified by a decision of the Conference of the Parties.

2. The Parties shall, where appropriate, cooperate directly or through global, regional and subregional organizations, and consult their national stakeholders,

including women's groups and groups involved in the health of children, in order to facilitate the development, implementation and updating of their implementation plans.

3. The Parties shall endeavour to utilize and, where necessary, establish the means to integrate national implementation plans for persistent organic pollutants in their sustainable development strategies where appropriate.

Article 8
Listing of chemicals in Annexes A, B and C

1. A Party may submit a proposal to the Secretariat for listing a chemical in Annexes A, B and/or C. The proposal shall contain the information specified in Annex D. In developing a proposal, a Party may be assisted by other Parties and/or by the Secretariat.

2. The Secretariat shall verify whether the proposal contains the information specified in Annex D. If the Secretariat is satisfied that the proposal contains the information so specified, it shall forward the proposal to the Persistent Organic Pollutants Review Committee.

3. The Committee shall examine the proposal and apply the screening criteria specified in Annex D in a flexible and transparent way, taking all information provided into account in an integrative and balanced manner.

4. If the Committee decides that:

   (a) It is satisfied that the screening criteria have been fulfilled, it shall, through the Secretariat, make the proposal and the evaluation of the Committee available to all Parties and observers and invite them to submit the information specified in Annex E; or

   (b) It is not satisfied that the screening criteria have been fulfilled, it shall, through the Secretariat, inform all Parties and observers and make the proposal and the evaluation of the Committee available to all Parties and the proposal shall be set aside.

5. Any Party may resubmit a proposal to the Committee that has been set aside by the Committee pursuant to paragraph 4. The resubmission may include any concerns of the Party as well as a justification for additional consideration by the Committee. If, following this procedure, the Committee again sets the proposal aside, the Party may challenge the decision of the Committee and the Conference of the Parties shall consider the matter at its next session. The Conference of the Parties may decide, based on the screening criteria in Annex D and taking into account the evaluation of the Committee and any additional information provided by any Party or observer, that the proposal should proceed.

6. Where the Committee has decided that the screening criteria have been fulfilled, or the Conference of the Parties has decided that the proposal should

proceed, the Committee shall further review the proposal, taking into account any relevant additional information received, and shall prepare a draft risk profile in accordance with Annex E. It shall, through the Secretariat, make that draft available to all Parties and observers, collect technical comments from them and, taking those comments into account, complete the risk profile.

7. If, on the basis of the risk profile conducted in accordance with Annex E, the Committee decides:

   (a) That the chemical is likely as a result of its long-range environmental transport to lead to significant adverse human health and/or environmental effects such that global action is warranted, the proposal shall proceed. Lack of full scientific certainty shall not prevent the proposal from proceeding. The Committee shall, through the Secretariat, invite information from all Parties and observers relating to the considerations specified in Annex F. It shall then prepare a risk management evaluation that includes an analysis of possible control measures for the chemical in accordance with that Annex; or

   (b) That the proposal should not proceed, it shall, through the Secretariat, make the risk profile available to all Parties and observers and set the proposal aside.

8. For any proposal set aside pursuant to paragraph 7(b), a Party may request the Conference of the Parties to consider instructing the Committee to invite additional information from the proposing Party and other Parties during a period not to exceed one year. After that period and on the basis of any information received, the Committee shall reconsider the proposal pursuant to paragraph 6 with a priority to be decided by the Conference of the Parties. If, following this procedure, the Committee again sets the proposal aside, the Party may challenge the decision of the Committee and the Conference of the Parties shall consider the matter at its next session. The Conference of the Parties may decide, based on the risk profile prepared in accordance with Annex E and taking into account the evaluation of the Committee and any additional information provided by any Party or observer, that the proposal should proceed. If the Conference of the Parties decides that the proposal shall proceed, the Committee shall then prepare the risk management evaluation.

9. The Committee shall, based on the risk profile referred to in paragraph 6 and the risk management evaluation referred to in paragraph 7(a) or paragraph 8, recommend whether the chemical should be considered by the Conference of the Parties for listing in Annexes A, B and/or C. The Conference of the Parties, taking due account of the recommendations of the Committee, including any scientific uncertainty, shall decide, in a precautionary manner, whether to list the chemical, and specify its related control measures, in Annexes A, B and/or C.

Article 9
Information exchange

1. Each Party shall facilitate or undertake the exchange of information relevant to:
   (a) The reduction or elimination of the production, use and release of persistent organic pollutants; and
   (b) Alternatives to persistent organic pollutants, including information relating to their risks as well as to their economic and social costs.
2. The Parties shall exchange the information referred to in paragraph 1 directly or through the Secretariat.
3. Each Party shall designate a national focal point for the exchange of such information.
4. The Secretariat shall serve as a clearing-house mechanism for information on persistent organic pollutants, including information provided by Parties, intergovernmental organizations and non-governmental organizations.
5. For the purposes of this Convention, information on health and safety of humans and the environment shall not be regarded as confidential. Parties that exchange other information pursuant to this Convention shall protect any confidential information as mutually agreed.

Article 10
Public information, awareness and education

1. Each Party shall, within its capabilities, promote and facilitate:
   (a) Awareness among its policy and decision makers with regard to persistent organic pollutants;
   (b) Provision to the public of all available information on persistent organic pollutants, taking into account paragraph 5 of Article 9;
   (c) Development and implementation, especially for women, children and the least educated, of educational and public awareness programmes on persistent organic pollutants, as well as on their health and environmental effects and on their alternatives;
   (d) Public participation in addressing persistent organic pollutants and their health and environmental effects and in developing adequate responses, including opportunities for providing input at the national level regarding implementation of this Convention;
   (e) Training of workers, scientists, educators and technical and managerial personnel;
   (f) Development and exchange of educational and public awareness materials at the national and international levels; and

(g) Development and implementation of education and training programmes at the national and international levels.

2. Each Party shall, within its capabilities, ensure that the public has access to the public information referred to in paragraph 1 and that the information is kept up-to-date.

3. Each Party shall, within its capabilities, encourage industry and professional users to promote and facilitate the provision of the information referred to in paragraph 1 at the national level and, as appropriate, subregional, regional and global levels.

4. In providing information on persistent organic pollutants and their alternatives, Parties may use safety data sheets, reports, mass media and other means of communication, and may establish information centres at national and regional levels.

5. Each Party shall give sympathetic consideration to developing mechanisms, such as pollutant release and transfer registers, for the collection and dissemination of information on estimates of the annual quantities of the chemicals listed in Annex A, B or C that are released or disposed of.

Article 11
Research, development and monitoring

1. The Parties shall, within their capabilities, at the national and international levels, encourage and/or undertake appropriate research, development, monitoring and cooperation pertaining to persistent organic pollutants and, where relevant, to their alternatives and to candidate persistent organic pollutants, including on their:

(a) Sources and releases into the environment;

(b) Presence, levels and trends in humans and the environment;

(c) Environmental transport, fate and transformation;

(d) Effects on human health and the environment;

(e) Socio-economic and cultural impacts;

(f) Release reduction and/or elimination; and

(g) Harmonized methodologies for making inventories of generating sources and analytical techniques for the measurement of releases.

2. In undertaking action under paragraph 1, the Parties shall, within their capabilities:

(a) Support and further develop, as appropriate, international programmes, networks and organizations aimed at defining, conducting, assessing and financing research, data collection and monitoring, taking into account the need to minimize duplication of effort;

(b) Support national and international efforts to strengthen national scientific and technical research capabilities, particularly in developing countries and countries with economies in transition, and to promote access to, and the exchange of, data and analyses;

(c) Take into account the concerns and needs, particularly in the field of financial and technical resources, of developing countries and countries with economies in transition and cooperate in improving their capability to participate in the efforts referred to in subparagraphs (a) and (b);

(d) Undertake research work geared towards alleviating the effects of persistent organic pollutants on reproductive health;

(e) Make the results of their research, development and monitoring activities referred to in this paragraph accessible to the public on a timely and regular basis; and

(f) Encourage and/or undertake cooperation with regard to storage and maintenance of information generated from research, development and monitoring.

Article 12
Technical assistance

1. The Parties recognize that rendering of timely and appropriate technical assistance in response to requests from developing country Parties and Parties with economies in transition is essential to the successful implementation of this Convention.

2. The Parties shall cooperate to provide timely and appropriate technical assistance to developing country Parties and Parties with economies in transition, to assist them, taking into account their particular needs, to develop and strengthen their capacity to implement their obligations under this Convention.

3. In this regard, technical assistance to be provided by developed country Parties, and other Parties in accordance with their capabilities, shall include, as appropriate and as mutually agreed, technical assistance for capacity-building relating to implementation of the obligations under this Convention. Further guidance in this regard shall be provided by the Conference of the Parties.

4. The Parties shall establish, as appropriate, arrangements for the purpose of providing technical assistance and promoting the transfer of technology to developing country Parties and Parties with economies in transition relating to the implementation of this Convention. These arrangements shall include regional and subregional centres for capacity-building and transfer of technology to assist developing country Parties and Parties with economies in transition to fulfil their obligations under this Convention. Further guidance in this regard shall be provided by the Conference of the Parties.

5. The Parties shall, in the context of this Article, take full account of the specific needs and special situation of least developed countries and small island developing states in their actions with regard to technical assistance.

Article 13
Financial resources and mechanisms

1. Each Party undertakes to provide, within its capabilities, financial support and incentives in respect of those national activities that are intended to achieve the objective of this Convention in accordance with its national plans, priorities and programmes.
2. The developed country Parties shall provide new and additional financial resources to enable developing country Parties and Parties with economies in transition to meet the agreed full incremental costs of implementing measures which fulfill their obligations under this Convention as agreed between a recipient Party and an entity participating in the mechanism described in paragraph 6. Other Parties may also on a voluntary basis and in accordance with their capabilities provide such financial resources. Contributions from other sources should also be encouraged. The implementation of these commitments shall take into account the need for adequacy, predictability, the timely flow of funds and the importance of burden sharing among the contributing Parties.
3. Developed country Parties, and other Parties in accordance with their capabilities and in accordance with their national plans, priorities and programmes, may also provide and developing country Parties and Parties with economies in transition avail themselves of financial resources to assist in their implementation of this Convention through other bilateral, regional and multilateral sources or channels.
4. The extent to which the developing country Parties will effectively implement their commitments under this Convention will depend on the effective implementation by developed country Parties of their commitments under this Convention relating to financial resources, technical assistance and technology transfer. The fact that sustainable economic and social development and eradication of poverty are the first and overriding priorities of the developing country Parties will be taken fully into account, giving due consideration to the need for the protection of human health and the environment.
5. The Parties shall take full account of the specific needs and special situation of the least developed countries and the small island developing states in their actions with regard to funding.
6. A mechanism for the provision of adequate and sustainable financial resources to developing country Parties and Parties with economies in transition on a grant or concessional basis to assist in their implementation of the Convention is hereby defined. The mechanism shall function under the authority, as appropriate, and guidance of, and be accountable to the Conference of the Parties for

the purposes of this Convention. Its operation shall be entrusted to one or more entities, including existing international entities, as may be decided upon by the Conference of the Parties. The mechanism may also include other entities providing multilateral, regional and bilateral financial and technical assistance. Contributions to the mechanism shall be additional to other financial transfers to developing country Parties and Parties with economies in transition as reflected in, and in accordance with, paragraph 2.

7. Pursuant to the objectives of this Convention and paragraph 6, the Conference of the Parties shall at its first meeting adopt appropriate guidance to be provided to the mechanism and shall agree with the entity or entities participating in the financial mechanism upon arrangements to give effect thereto. The guidance shall address, inter alia:

   (a) The determination of the policy, strategy and programme priorities, as well as clear and detailed criteria and guidelines regarding eligibility for access to and utilization of financial resources including monitoring and evaluation on a regular basis of such utilization;

   (b) The provision by the entity or entities of regular reports to the Conference of the Parties on adequacy and sustainability of funding for activities relevant to the implementation of this Convention;

   (c) The promotion of multiple-source funding approaches, mechanisms and arrangements;

   (d) The modalities for the determination in a predictable and identifiable manner of the amount of funding necessary and available for the implementation of this Convention, keeping in mind that the phasing out of persistent organic pollutants might require sustained funding, and the conditions under which that amount shall be periodically reviewed; and

   (e) The modalities for the provision to interested Parties of assistance with needs assessment, information on available sources of funds and on funding patterns in order to facilitate coordination among them.

8. The Conference of the Parties shall review, not later than its second meeting and thereafter on a regular basis, the effectiveness of the mechanism established under this Article, its ability to address the changing needs of the developing country Parties and Parties with economies in transition, the criteria and guidance referred to in paragraph 7, the level of funding as well as the effectiveness of the performance of the institutional entities entrusted to operate the financial mechanism. It shall, based on such review, take appropriate action, if necessary, to improve the effectiveness of the mechanism, including by means of recommendations and guidance on measures to ensure adequate and sustainable funding to meet the needs of the Parties.

Article 14
Interim financial arrangements

The institutional structure of the Global Environment Facility, operated in accordance with the Instrument for the Establishment of the Restructured Global Environment Facility, shall, on an interim basis, be the principal entity entrusted with the operations of the financial mechanism referred to in Article 13, for the period between the date of entry into force of this Convention and the first meeting of the Conference of the Parties, or until such time as the Conference of the Parties decides which institutional structure will be designated in accordance with Article 13. The institutional structure of the Global Environment Facility should fulfill this function through operational measures related specifically to persistent organic pollutants taking into account that new arrangements for this area may be needed.

Article 15
Reporting

1. Each Party shall report to the Conference of the Parties on the measures it has taken to implement the provisions of this Convention and on the effectiveness of such measures in meeting the objectives of the Convention.
2. Each Party shall provide to the Secretariat:
   (a) Statistical data on its total quantities of production, import and export of each of the chemicals listed in Annex A and Annex B or a reasonable estimate of such data; and
   (b) To the extent practicable, a list of the States from which it has imported each such substance and the States to which it has exported each such substance.
3. Such reporting shall be at periodic intervals and in a format to be decided by the Conference of the Parties at its first meeting.

Article 16
Effectiveness evaluation.

1. Commencing four years after the date of entry into force of this Convention, and periodically thereafter at intervals to be decided by the Conference of the Parties, the Conference shall evaluate the effectiveness of this Convention.
2. In order to facilitate such evaluation, the Conference of the Parties shall, at its first meeting, initiate the establishment of arrangements to provide itself with comparable monitoring data on the presence of the chemicals listed in Annexes A, B and C as well as their regional and global environmental transport. These arrangements:
   (a) Should be implemented by the Parties on a regional basis when appropriate, in accordance with their technical and financial capabilities, using

existing monitoring programmes and mechanisms to the extent possible and promoting harmonization of approaches;

(b) May be supplemented where necessary, taking into account the differences between regions and their capabilities to implement monitoring activities; and

(c) Shall include reports to the Conference of the Parties on the results of the monitoring activities on a regional and global basis at intervals to be specified by the Conference of the Parties.

3. The evaluation described in paragraph 1 shall be conducted on the basis of available scientific, environmental, technical and economic information, including:

(a) Reports and other monitoring information provided pursuant to paragraph 2;

(b) National reports submitted pursuant to Article 15; and

(c) Non-compliance information provided pursuant to the procedures established under Article 17.

Article 17
Non-compliance

The Conference of the Parties shall, as soon as practicable, develop and approve procedures and institutional mechanisms for determining non-compliance with the provisions of this Convention and for the treatment of Parties found to be in non-compliance.

Article 18
Settlement of disputes

1. Parties shall settle any dispute between them concerning the interpretation or application of this Convention through negotiation or other peaceful means of their own choice.

2. When ratifying, accepting, approving or acceding to the Convention, or at any time thereafter, a Party that is not a regional economic integration organization may declare in a written instrument submitted to the depositary that, with respect to any dispute concerning the interpretation or application of the Convention, it recognizes one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:

(a) Arbitration in accordance with procedures to be adopted by the Conference of the Parties in an annex as soon as practicable;

(b) Submission of the dispute to the International Court of Justice.

3. A Party that is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedure referred to in paragraph 2(a).

4. A declaration made pursuant to paragraph 2 or paragraph 3 shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the depositary.

5. The expiry of a declaration, a notice of revocation or a new declaration shall not in any way affect proceedings pending before an arbitral tribunal or the International Court of Justice unless the parties to the dispute otherwise agree.

6. If the parties to a dispute have not accepted the same or any procedure pursuant to paragraph 2, and if they have not been able to settle their dispute within twelve months following notification by one party to another that a dispute exists between them, the dispute shall be submitted to a conciliation commission at the request of any party to the dispute. The conciliation commission shall render a report with recommendations. Additional procedures relating to the conciliation commission shall be included in an annex to be adopted by the Conference of the Parties no later than at its second meeting.

Article 19
Conference of the Parties

1. A Conference of the Parties is hereby established.

2. The first meeting of the Conference of the Parties shall be convened by the Executive Director of the United Nations Environment Programme no later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be decided by the Conference.

3. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party provided that it is supported by at least one third of the Parties.

4. The Conference of the Parties shall by consensus agree upon and adopt at its first meeting rules of procedure and financial rules for itself and any subsidiary bodies, as well as financial provisions governing the functioning of the Secretariat.

5. The Conference of the Parties shall keep under continuous review and evaluation the implementation of this Convention. It shall perform the functions assigned to it by the Convention and, to this end, shall:

   (a) Establish, further to the requirements of paragraph 6, such subsidiary bodies as it considers necessary for the implementation of the Convention;

(b) Cooperate, where appropriate, with competent international organizations and intergovernmental and non-governmental bodies; and

(c) Regularly review all information made available to the Parties pursuant to Article 15, including consideration of the effectiveness of paragraph 2(b)(iii) of Article 3;

(d) Consider and undertake any additional action that may be required for the achievement of the objectives of the Convention.

6. The Conference of the Parties shall, at its first meeting, establish a subsidiary body to be called the Persistent Organic Pollutants Review Committee for the purposes of performing the functions assigned to that Committee by this Convention. In this regard:

(a) The members of the Persistent Organic Pollutants Review Committee shall be appointed by the Conference of the Parties. Membership of the Committee shall consist of government-designated experts in chemical assessment or management. The members of the Committee shall be appointed on the basis of equitable geographical distribution;

(b) The Conference of the Parties shall decide on the terms of reference, organization and operation of the Committee; and

(c) The Committee shall make every effort to adopt its recommendations by consensus. If all efforts at consensus have been exhausted, and no consensus reached, such recommendation shall as a last resort be adopted by a two-thirds majority vote of the members present and voting.

7. The Conference of the Parties shall, at its third meeting, evaluate the continued need for the procedure contained in paragraph 2(b) of Article 3, including consideration of its effectiveness.

8. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Convention, may be represented at meetings of the Conference of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in matters covered by the Convention, and which has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties as an observer may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article 20
Secretariat

1. A Secretariat is hereby established.

2. The functions of the Secretariat shall be:

(a) To make arrangements for meetings of the Conference of the Parties and its subsidiary bodies and to provide them with services as required;

(b) To facilitate assistance to the Parties, particularly developing country Parties and Parties with economies in transition, on request, in the implementation of this Convention;

(c) To ensure the necessary coordination with the secretariats of other relevant international bodies;

(d) To prepare and make available to the Parties periodic reports based on information received pursuant to Article 15 and other available information;

(e) To enter, under the overall guidance of the Conference of the Parties, into such administrative and contractual arrangements as may be required for the effective discharge of its functions; and

(f) To perform the other secretariat functions specified in this Convention and such other functions as may be determined by the Conference of the Parties.

3. The secretariat functions for this Convention shall be performed by the Executive Director of the United Nations Environment Programme, unless the Conference of the Parties decides, by a three-fourths majority of the Parties present and voting, to entrust the secretariat functions to one or more other international organizations.

Article 21
Amendments to the Convention

1. Amendments to this Convention may be proposed by any Party.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. The text of any proposed amendment shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the signatories to this Convention and, for information, to the depositary.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting.

4. The amendment shall be communicated by the depositary to all Parties for ratification, acceptance or approval.

5. Ratification, acceptance or approval of an amendment shall be notified to the depositary in writing. An amendment adopted in accordance with paragraph 3 shall enter into force for the Parties having accepted it on the ninetieth day after the date of deposit of instruments of ratification, acceptance or approval by at least three-fourths of the Parties. Thereafter, the amendment shall enter into force for any other Party on the ninetieth day after the date on which

that Party deposits its instrument of ratification, acceptance or approval of the amendment.

Article 22
Adoption and amendment of annexes

1. Annexes to this Convention shall form an integral part thereof and, unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to any annexes thereto.

2. Any additional annexes shall be restricted to procedural, scientific, technical or administrative matters.

3. The following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention:

   (a) Additional annexes shall be proposed and adopted according to the procedure laid down in paragraphs 1, 2 and 3 of Article 21;

   (b) Any Party that is unable to accept an additional annex shall so notify the depositary, in writing, within one year from the date of communication by the depositary of the adoption of the additional annex. The depositary shall without delay notify all Parties of any such notification received. A Party may at any time withdraw a previous notification of non-acceptance in respect of any additional annex, and the annex shall thereupon enter into force for that Party subject to subparagraph (c); and

   (c) On the expiry of one year from the date of the communication by the depositary of the adoption of an additional annex, the annex shall enter into force for all Parties that have not submitted a notification in accordance with the provisions of subparagraph (b).

4. The proposal, adoption and entry into force of amendments to Annex A, B or C shall be subject to the same procedures as for the proposal, adoption and entry into force of additional annexes to this Convention, except that an amendment to Annex A, B or C shall not enter into force with respect to any Party that has made a declaration with respect to amendment to those Annexes in accordance with paragraph 4 of Article 25, in which case any such amendment shall enter into force for such a Party on the ninetieth day after the date of deposit with the depositary of its instrument of ratification, acceptance, approval or accession with respect to such amendment.

5. The following procedure shall apply to the proposal, adoption and entry into force of an amendment to Annex D, E or F:

   (a) Amendments shall be proposed according to the procedure in paragraphs 1 and 2 of Article 21;

   (b) The Parties shall take decisions on an amendment to Annex D, E or F by consensus; and

(c) A decision to amend Annex D, E or F shall forthwith be communicated to the Parties by the depositary. The amendment shall enter into force for all Parties on a date to be specified in the decision.

6. If an additional annex or an amendment to an annex is related to an amendment to this Convention, the additional annex or amendment shall not enter into force until such time as the amendment to the Convention enters into force.

Article 23
Right to vote

1. Each Party to this Convention shall have one vote, except as provided for in paragraph 2.

2. A regional economic integration organization, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member States that are Parties to this Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right to vote, and vice versa.

Article 24
Signature

This Convention shall be open for signature at Stockholm by all States and regional economic integration organizations on 23 May 2001, and at the United Nations Headquarters in New York from 24 May 2001 to 22 May 2002.

Article 25
Ratification, acceptance, approval or accession

1. This Convention shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations. It shall be open for accession by States and by regional economic integration organizations from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

2. Any regional economic integration organization that becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to this Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently.

3. In its instrument of ratification, acceptance, approval or accession, a regional economic integration organization shall declare the extent of its competence

in respect of the matters governed by this Convention. Any such organization shall also inform the depositary, who shall in turn inform the Parties, of any relevant modification in the extent of its competence.

4. In its instrument of ratification, acceptance, approval or accession, any Party may declare that, with respect to it, any amendment to Annex A, B or C shall enter into force only upon the deposit of its instrument of ratification, acceptance, approval or accession with respect thereto.

Article 26
Entry into force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession.
2. For each State or regional economic integration organization that ratifies, accepts or approves this Convention or accedes thereto after the deposit of the fiftieth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.
3. For the purpose of paragraphs 1 and 2, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of that organization.

Article 27
Reservations

No reservations may be made to this Convention.

Article 28
Withdrawal

1. At any time after three years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the depositary.
2. Any such withdrawal shall take effect upon the expiry of one year from the date of receipt by the depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.

Article 29
Depositary

The Secretary-General of the United Nations shall be the depositary of this Convention.

Article 30
Authentic texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

Done at Stockholm on this twenty-second day of May, two thousand and one.

Annex A
Elimination

Part I

Chemical	Activity	Specific exemption
Aldrin* CAS No: 309-00-2	Production	None
	Use	Local ectoparasiticide Insecticide
Alpha hexachlorocyclohexane* CAS No: 319-84-6	Production	None
	Use	None
Beta hexachlorocyclohexane* CAS No: 319-85-7	Production	None
	Use	None
Chlordane* CAS No: 57-74-9	Production	As allowed for the Parties listed in the Register
	Use	Local ectoparasiticide Insecticide Termiticide Termiticide in buildings and dams Termiticide in roads Additive in plywood adhesives
Chlordecone* CAS No: 143-50-0	Production	None
	Use	None
Decabromodiphenyl ether (BDE-209) present in commercial decabromodiphenyl ether CAS No: 1163-19-5	Production	As allowed for the Parties listed in the Register
	Use	In accordance with Part IX of this Annex: • Parts for use in vehicles specified in paragraph 2 of Part IX of this Annex • Aircraft for which type approval has been applied for before December 2018 and has been received before December 2022 and spare parts for those aircraft • Textile products that require anti-flammable characteristics, excluding clothing and toys • Additives in plastic housings and parts used for heating home appliances, irons, fans, immersion heaters that contain or are in direct contact with electrical parts or are required to comply with fire retardancy standards, at concentrations lower than 10 per cent by weight of the part • Polyurethane foam for building insulation

Chemical	Activity	Specific exemption
Dechlorane Plus CAS No: 13560-89-9 "Dechlorane Plus" includes its *syn*-isomer (CAS No: 135821-03-3) and its *anti*-isomer (CAS No: 135821-74-8)	Production	None
	Use	In accordance with part XI of this Annex: • Aerospace • Space and defence applications • Medical imaging and radiotherapy devices and installations • Replacement parts for, and repair of, articles in applications in accordance with the provisions of paragraphs 2 and 3 of part XI of this Annex
Dicofol CAS No. 115-32-2 CAS No. 10606-46-9	Production	None
	Use	None
Dieldrin* CAS No: 60-57-1	Production	None
	Use	In agricultural operations
Endrin* CAS No: 72-20-8	Production	None
	Use	None
Heptachlor* CAS No: 76-44-8	Production	None
	Use	Termiticide Termiticide in structures of houses Termiticide (subterranean) Wood treatment In use in underground cable boxes
Hexabromobiphenyl* CAS No: 36355-01-8	Production	None
	Use	None
Hexabromocyclododecane	Production	As allowed for the parties listed in the Register in accordance with the provisions of Part VII of this Annex
	Use	Expanded polystyrene and extruded polystyrene in buildings in accordance with the provisions of Part VII of this Annex
Hexabromodiphenyl ether* and heptabromodiphenyl ether*	Production	None
	Use	Articles in accordance with the provisions of Part IV of this Annex
Hexachlorobenzene CAS No: 118-74-1	Production	As allowed for the Parties listed in the Register
	Use	Intermediate Solvent in pesticide Closed system site limited intermediate
Hexachlorobutadiene CAS No: 87-68-3	Production	None
	Use	None
Lindane* CAS No: 58-89-9	Production	None
	Use	Human health pharmaceutical for control of head lice and scabies as second line treatment

Chemical	Activity	Specific exemption
Methoxychlor* "Methoxychlor" refers to any possible isomer of dimethoxydiphenyltrichloroethane or any combination thereof. For example: CAS No: 72-43-5; CAS No: 30667-99-3; CAS No: 76733-77-2; CAS No: 255065-25-9; CAS No: 255065-26-0; CAS No: 59424-81-6; CAS No: 1348358-72-4.	Production	None
	Use	None
Mirex* CAS No: 2385-85-5	Production	As allowed for the Parties listed in the Register
	Use	Termiticide
Pentachlorobenzene* CAS No: 608-93-5	Production	None
	Use	None
Pentachlorophenol and its salts and esters	Production	As allowed for the parties listed in the Register in accordance with the provisions of Part VIII of this Annex
	Use	Pentachlorophenol for utility poles and cross-arms in accordance with the provisions of Part VIII of this Annex
Perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds "Perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds" means the following: (i) Perfluorohexane sulfonic acid (CAS No. 355-46-4, PFHxS), including branched isomers; (ii) Its salts; (iii) Any substance that contains the chemical moiety $C_6F_{13}SO_2$- as one of its structural elements and that potentially degrades to PFHxS.	Production	None
	Use	None

Chemical	Activity	Specific exemption
Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds "Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds" means the following:	Production	• Fire-fighting foam: None • For other production, as allowed for the Parties listed in the Register in accordance with the provisions of Part X of this Annex

(i) Perfluorooctanoic acid (PFOA; CAS No. 335-67-1), including any of its branched isomers:
(ii) Its salts:
(iii) PFOA-related compounds which, for the purposes of the Convention, are any substances that degrade to PFOA, including any substances (including salts and polymers) having a linear or branched perfluoroheptyl group with the moiety (C_7F_{15})C as one of the structural elements.
The following compounds are not included as PFOA-related compounds:
(a) C_8F_{17}-X, where X= F, Cl, Br;
(b) Fluoropolymers that are covered by $CF_3[CF_2]_n$-R', where R'=any group, n>16;
(c) Perfluoroalkyl carboxylic and phosphonic acids (including their salts, esters, halides and anhydrides) with ≥8 perfluorinated carbons;
(d) Perfluoroalkane sulfonic acids (including their salts, esters, halides and anhydrides) with ≥9 perfluorinated carbons;
(e) Perfluorooctane sulfonic acid (PFOS), its salts and perfluorooctane sulfonyl fluoride (PFOSF), as listed in Annex B to the Convention.
	Use	In accordance with the provisions of Part X of this Annex:
		• Photolithography or etch processes in semiconductor manufacturing
		• Photographic coatings applied to films
		• Textiles for oil and water repellency for the protection of workers from dangerous liquids that comprise risks to their health and safety
		• Invasive and implantable medical devices
		• Fire-fighting foam for liquid fuel vapour suppression and liquid fuel fires (Class B fires) in installed systems, including both mobile and fixed systems, in accordance with paragraph 2 of Part X of this Annex
		• Use of perfluorooctyl iodide for the production of perfluorooctyl bromide for the purpose of producing pharmaceutical products, in accordance with the provisions of paragraph 3 of Part X of this Annex
		• Manufacture of polytetrafluoroethylene (PTFE) and polyvinylidene fluoride (PVDF) for the production of:
		  • High-performance, corrosion-resistant gas filter membranes, water filter membranes and membranes for medical textiles
		  • Industrial waste heat exchanger equipment
		  • Industrial sealants capable of preventing leakage of volatile organic compounds and PM2.5 particulates
		• Manufacture of polyfluoroethylene propylene (FEP) for the production of high-voltage electrical wire and cables for power transmission
		• Manufacture of fluoroelastomers for the production of O-rings, v-belts and plastic accessories for car interiors

Chemical	Activity	Specific exemption
Polychlorinated Biphenyls (PCB)*	Production	None
	Use	Articles in use in accordance with the provisions of Part II of this Annex
Polychlorinated naphthalenes, including dichlorinated naphthalenes, trichlorinated naphthalenes, tetrachlorinated napthalenes, pentachlorinated napthalenes, hexachlorinated naphthalenes, heptachlorinated naphthalenes, octachlorinated naphthalene	Production	Intermediates in production of polyfluorinated naphthalenes, including octafluoronaphthalene
	Use	Production of polyfluorinated naphthalenes, including octafluoronaphthalene
Short-chain chlorinated paraffins (Alkanes, C_{10-13}, chloro)$^{+}$: straight-chain chlorinated hydrocarbons with chain lengths ranging from C_{10} to C_{13} and a content of chlorine greater than 48 per cent by weight For example, the substances with the following CAS numbers may contain short-chain chlorinated paraffins: CAS No. 85535-84-8; CAS No. 68920-70-7; CAS No. 71011-12-6; CAS No. 85536-22-7; CAS No. 85681-73-8; CAS No. 108171-26-2.	Production	As allowed for the Parties listed in the Register
	Use	• Additives in the production of transmission belts in the natural and synthetic rubber industry • Spare parts of rubber conveyor belts in the mining and forestry industries • Leather industry, in particular fatliquoring in leather • Lubricant additives, in particular for engines of automobiles, electric generators and wind power facilities, and for drilling in oil and gas exploration and petroleum refining to produce diesel oil • Tubes for outdoor decoration bulbs • Waterproofing and fire-retardant paints • Adhesives • Metal processing • Secondary plasticizers in flexible polyvinyl chloride, except in toys and children's products
Technical endosulfan* CAS No: 115-29-7 and its related isomers* CAS No: 959-98-8 and CAS No: 33213-65-9	Production	As allowed for the parties listed in the Register of Specific Exemptions
	Use	Crop-pest complexes as listed in accordance with the provisions of Part VI of this Annex
Tetrabromodiphenyl ether* and pentabromodiphenyl ether*	Production	None
	Use	Articles in accordance with the provisions of Part IV of this Annex
Toxaphene* CAS No: 8001-35-2	Production	None
	Use	None

Chemical	Activity	Specific exemption
UV-328 CAS No: 25973-55-1	Production	As allowed for the Parties listed in the Register in accordance with the provisions of part XII of this Annex
	Use	In accordance with part XII of this Annex: • Parts of motor vehicles (covering all land-based vehicles, such as cars, motorcycles, agricultural and construction vehicles and industrial trucks), such as bumper systems, radiator grills, spoilers, car garnish, roof modules, soft/hard tops, trunk lids and rear window wipers • Industrial coating applications for motor vehicles, engineering machines, rail transportation vehicles, and heavy-duty coatings for large steel structures • Mechanical separators in blood collection tubes • Triacetyl cellulose (TAC) film in polarizers • Photographic paper • Replacement parts for articles in applications in accordance with the provisions of paragraphs 2 and 3 of part XII of this Annex

Notes:

(i) Except as otherwise specified in this Convention, quantities of a chemical occurring as unintentional trace contaminants in products and articles shall not be considered to be listed in this Annex;

(ii) This note shall not be considered as a production and use specific exemption for purposes of paragraph 2 of Article 3. Quantities of a chemical occurring as constituents of articles manufactured or already in use before or on the date of entry into force of the relevant obligation with respect to that chemical, shall not be considered as listed in this Annex, provided that a Party has notified the Secretariat that a particular type of article remains in use within that Party. The Secretariat shall make such notifications publicly available;

(iii) This note, which does not apply to a chemical that has an asterisk following its name in the Chemical column in Part I of this Annex, shall not be considered as a production and use specific exemption for purposes of paragraph 2 of Article 3. Given that no significant quantities of the chemical are expected to reach humans and the environment during the production and use of a closed-system site-limited intermediate, a Party, upon notification to the Secretariat, may allow the production and use of quantities of a chemical listed in this Annex as a closed-system site-limited intermediate that is chemically transformed in the manufacture of other chemicals that, taking into consideration the criteria in paragraph 1 of Annex D, do not exhibit the characteristics of persistent organic

pollutants. This notification shall include information on total production and use of such chemical or a reasonable estimate of such information and information regarding the nature of the closed-system site-limited process including the amount of any non-transformed and unintentional trace contamination of the persistent organic pollutant-starting material in the final product. This procedure applies except as otherwise specified in this Annex. The Secretariat shall make such notifications available to the Conference of the Parties and to the public. Such production or use shall not be considered a production or use specific exemption. Such production and use shall cease after a ten-year period, unless the Party concerned submits a new notification to the Secretariat, in which case the period will be extended for an additional ten years unless the Conference of the Parties, after a review of the production and use decides otherwise. The notification procedure can be repeated;

(iv) All the specific exemptions in this Annex may be exercised by Parties that have registered exemptions in respect of them in accordance with Article 4 with the exception of the use of polychlorinated biphenyls in articles in use in accordance with the provisions of Part II, and the use of hexabromodiphenyl ether and heptabromodiphenyl ether in accordance with the provisions of Part IV, and the use of tetrabromodiphenyl ether and pentabromodiphenyl ether in accordance with the provisions of Part V of this Annex, which may be exercised by all Parties;

(v) Technical endosulfan (CAS No:115-29-7), its related isomers (CAS No: 959-98-8 and CAS No: 33213-65-9) and endosulfan sulfate (CAS No: 1031-07-8) were assessed and identified as persistent organic pollutants;

(vi) Pentachlorophenol (CAS No: 87-86-5), sodium pentachlorophenate (CAS No: 131-52-2 and 27735-64-4 (as monohydrate) and pentachlorophenyl laurate (CAS No: 3772-94-9), when considered together with their transformation product pentachloroanisole (CAS No: 1825-21-4), were identified as persistent organic pollutants;

(vii) Note (i) does not apply to quantities of a chemical that has a plus sign ("+") following its name in the "Chemical" column in Part I of this Annex that occurs in mixtures at concentrations greater than or equal to 1 per cent by weight.

Schedule 1AA Annex A Part I table Alpha hexachlorocyclohexane: inserted, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 1AA Annex A Part I table Beta hexachlorocyclohexane: inserted, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 1AA Annex A Part I table Chlordecone: inserted, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 1AA Annex A Part I table Decabromodiphenyl ether (BDE-209): inserted, on 18 December 2018, by clause 4(1) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2018 (LI 2018/256).

Schedule 1AA Annex A Part I table Dechlorane Plus: inserted, on 14 March 2025, by clause 4(1) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2025 (SL 2025/44).

Schedule 1AA Annex A Part I table Dicofol: inserted, on 3 December 2020, by clause 4(1) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2020 (LI 2020/286).

Schedule 1AA Annex A Part I table Hexabromobiphenyl: inserted, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 1AA Annex A Part I table Hexabromocyclododecane: inserted, on 15 December 2016, by clause 4(1) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2016 (LI 2016/299).

Schedule 1AA Annex A Part I table Hexabromodiphenyl ether and heptabromodiphenyl ether: inserted, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 1AA Annex A Part I table Hexachlorobutadiene: inserted, on 15 December 2016, by clause 4(1) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2016 (LI 2016/299).

Schedule 1AA Annex A Part I table Lindane: inserted, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 1AA Annex A Part I table Methoxychlor: inserted, on 14 March 2025, by clause 4(1) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2025 (SL 2025/44).

Schedule 1AA Annex A Part I table Pentachlorobenzene: inserted, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 1AA Annex A Part I table Pentachlorophenol: inserted, on 15 December 2016, by clause 4(1) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2016 (LI 2016/299).

Schedule 1AA Annex A Part I table Perfluorohexane sulfonic acid (PFHxS): inserted, on 5 October 2023, by clause 4 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2023 (SL 2023/233).

Schedule 1AA Annex A Part I table Perfluorooctanoic acid (PFOA): inserted, on 3 December 2020, by clause 4(1) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2020 (LI 2020/286).

Schedule 1AA Annex A Part I table Polychlorinated naphthalenes: inserted, on 15 December 2016, by clause 4(1) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2016 (LI 2016/299).

Schedule 1AA Annex A Part I table Short-chain chlorinated paraffins: inserted, on 18 December 2018, by clause 4(1) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2018 (LI 2018/256).

Schedule 1AA Annex A Part I table Technical endosulfan: inserted, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 1AA Annex A Part I table Tetrabromodiphenyl ether and pentabromodiphenyl ether: inserted, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 1AA Annex A Part I table UV-328: inserted, on 14 March 2025, by clause 4(1) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2025 (SL 2025/44).

Schedule 1AA Annex A Part I note (iv): substituted, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 1AA Annex A Part I note (v): added, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 1AA Annex A Part I note (vi): inserted, on 15 December 2016, by clause 4(2) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2016 (LI 2016/299).

Schedule 1AA Annex A Part I note (vii): inserted, on 18 December 2018, by clause 4(2) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2018 (LI 2018/256).

Part II
Polychlorinated biphenyls

Each Party shall:

(a) With regard to the elimination of the use of polychlorinated biphenyls in equipment (e.g. transformers, capacitors or other receptacles containing liquid stocks) by 2025, subject to review by the Conference of the Parties, take action in accordance with the following priorities:

(i) Make determined efforts to identify, label and remove from use equipment containing greater than 10 per cent polychlorinated biphenyls and volumes greater than 5 litres;

(ii) Make determined efforts to identify, label and remove from use equipment containing greater than 0.05 per cent polychlorinated biphenyls and volumes greater than 5 litres;

(iii) Endeavour to identify and remove from use equipment containing greater than 0.005 percent polychlorinated biphenyls and volumes greater than 0.05 litres;

(b) Consistent with the priorities in subparagraph (a), promote the following measures to reduce exposures and risk to control the use of polychlorinated biphenyls:

(i) Use only in intact and non-leaking equipment and only in areas where the risk from environmental release can be minimised and quickly remedied;

(ii) Not use in equipment in areas associated with the production or processing of food or feed;

(iii) When used in populated areas, including schools and hospitals, all reasonable measures to protect from electrical failure which could result in a fire, and regular inspection of equipment for leaks;

(c) Notwithstanding paragraph 2 of Article 3, ensure that equipment containing polychlorinated biphenyls, as described in subparagraph (a), shall not be exported or imported except for the purpose of environmentally sound waste management;

(d) Except for maintenance and servicing operations, not allow recovery for the purpose of reuse in other equipment of liquids with polychlorinated biphenyls content above 0.005 per cent;

(e) Make determined efforts designed to lead to environmentally sound waste management of liquids containing polychlorinated biphenyls and equipment contaminated with polychlorinated biphenyls having a polychlorinated biphenyls content above 0.005 per cent, in accordance with paragraph 1 of Article 6,

as soon as possible but no later than 2028, subject to review by the Conference of the Parties;

(f) In lieu of note (ii) in Part I of this Annex, endeavour to identify other articles containing more than 0.005 per cent polychlorinated biphenyls (e.g. cable-sheaths, cured caulk and painted objects) and manage them in accordance with paragraph 1 of Article 6;

(g) Provide a report every five years on progress in eliminating polychlorinated biphenyls and submit it to the Conference of the Parties pursuant to Article 15;

(h) The reports described in subparagraph (g) shall, as appropriate, be considered by the Conference of the Parties in its reviews relating to polychlorinated biphenyls. The Conference of the Parties shall review progress towards elimination of polychlorinated biphenyls at five year intervals or other period, as appropriate, taking into account such reports.

Part III
Definitions

Schedule 1AA Annex A Part III: added, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

For the purpose of this Annex:

(a) "Hexabromodiphenyl ether and heptabromodiphenyl ether" mean 2,2′,4,4′,5,5′-hexabromodiphenyl ether (BDE-153, CAS No: 68631-49-2), 2,2′,4,4′,5,6′-hexabromodiphenyl ether (BDE-154, CAS No: 207122-15-4), 2,2′,3,3′,4,5′,6-heptabromodiphenyl ether (BDE-175, CAS No: 446255-22-7), 2,2′,3,4,4′,5′,6-heptabromodiphenyl ether (BDE-183, CAS No: 207122-16-5) and other hexa- and heptabromodiphenyl ethers present in commercial octabromodiphenyl ether.

(b) "Tetrabromodiphenyl ether and pentabromodiphenyl ether" means 2,2′,4,4′-tetrabromodiphenyl ether (BDE-47, CAS No: 5436-43-1) and 2,2′,4,4′,5-pentabromodiphenyl ether (BDE-99, CAS No: 60348-60-9) and other tetra- and pentabromodiphenyl ethers present in commercial pentabromodiphenyl ether.

(c) "Hexabromocyclododecane" means hexabromocyclododecane (CAS No: 25637-99-4), 1,2,5,6,9,10-hexabromocyclododecane (CAS No: 3194-55-6) and its main diastereoisomers: alpha-hexabromocyclododecane (CAS No: 134237-50-6); beta-hexabromocyclododecane (CAS No: 134237-51-7); and gamma-hexabromocyclododecane (CAS No: 134237-52-8).

Schedule 1AA Annex A Part III paragraph (c): inserted, on 15 December 2016, by clause 4(3) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2016 (LI 2016/299).

Part IV
Hexabromodiphenyl ether and heptabromodiphenyl ether

Schedule 1AA Annex A Part IV: added, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

1. A Party may allow recycling of articles that contain or may contain hexabromodiphenyl ether and heptabromodiphenyl ether, and the use and final disposal of articles manufactured from recycled materials that contain or may contain hexabromodiphenyl ether and heptabromodiphenyl ether, provided that:

   (a) The recycling and final disposal is carried out in an environmentally sound manner and does not lead to recovery of hexabromodiphenyl ether and heptabromodiphenyl ether for the purpose of their reuse;

   (b) The Party takes steps to prevent exports of such articles that contain levels/concentrations of hexabromodiphenyl ether and heptabromodiphenyl ether exceeding those permitted for the sale, use, import or manufacture of those articles within the territory of the Party; and

   (c) The Party has notified the Secretariat of its intention to make use of this exemption.

2. At its sixth ordinary meeting and at every second ordinary meeting thereafter the Conference of the Parties shall evaluate the progress that Parties have made towards achieving their ultimate objective of elimination of hexabromodiphenyl ether and heptabromodiphenyl ether contained in articles and review the continued need for this specific exemption. This specific exemption shall in any case expire at the latest in 2030.

Part V
Tetrabromodiphenyl ether and pentabromodiphenyl ether

Schedule 1AA Annex A Part V: added, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

1. A Party may allow recycling of articles that contain or may contain tetrabromodiphenyl ether and pentabromodiphenyl ether, and the use and final disposal of articles manufactured from recycled materials that contain or may contain tetrabromodiphenyl ether and pentabromodiphenyl ether, provided that:

   (a) The recycling and final disposal is carried out in an environmentally sound manner and does not lead to recovery of tetrabromodiphenyl ether and pentabromodiphenyl ether for the purpose of their reuse;

   (b) The Party does not allow this exemption to lead to the export of articles containing levels/concentrations of tetrabromodiphenyl ether and pentabromodiphenyl ether that exceed those permitted to be sold within the territory of the Party; and

(c) The Party has notified the Secretariat of its intention to make use of this exemption.

2. At its sixth ordinary meeting and at every second ordinary meeting thereafter the Conference of the Parties shall evaluate the progress that Parties have made towards achieving their ultimate objective of elimination of tetrabromodiphenyl ether and pentabromodiphenyl ether contained in articles and review the continued need for this specific exemption. This specific exemption shall in any case expire at the latest in 2030.

Part VI
Technical endosulfan and its related isomers (endosulfan)

Schedule 1AA Annex A Part VI: added, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

The production and use of endosulfan shall be eliminated except for parties that have notified the Secretariat of their intention to produce and/or use it in accordance with Article 4 of the Convention. Specific exemptions may be available for the use of endosulfan for the following crop-pest complexes:

Crop	**Pest**
Cotton	Cotton bollworms, pink bollworm, aphids, jassids, whiteflies, thrips, leafroller
Jute	Bihar hairy caterpillar, yellow mite
Coffee	Berry borer, stem borer
Tea	Aphids, caterpillars, tea mosquito bugs, mealybugs, scale insects, thrips, flushworm, smaller green leaf hopper, tea geometrid
Tobacco	Oriental tobacco bud worm, aphids
Cow peas, beans, tomato	Whiteflies, aphids, leaf miner
Okra, tomato, eggplant	Fruit and shoot borer, diamondback moth, aphids, jassids
Onion, potato, chillies	Aphids, jassids
Apple	Yellow aphids
Mango	Hopper, fruit fly
Gram, arhar	Aphids, caterpillars, pod borer, pea semilooper
Maize	Aphids, stem borer, pink borer
Paddy/rice	White jassids, stem borer, gall midge, rice hispa
Wheat	Aphids, termites, pink borer
Groundnuts	Aphids
Mustard	Aphids, gall midge

Part VII
Hexabromocyclododecane

Schedule 1AA Annex A Part VII: inserted, on 15 December 2016, by clause 4(4) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2016 (LI 2016/299).

Each Party that has registered for the exemption pursuant to Article 4 for the production and use of hexabromocyclododecane for expanded polystyrene and extruded polystyrene in buildings shall take necessary measures to ensure that expanded polystyrene and extruded polystyrene containing hexabromocyclododecane can be easily identified by labelling or other means throughout its life cycle.

Part VIII
Pentachlorophenol and its salts and esters

Schedule 1AA Annex A Part VIII: inserted, on 15 December 2016, by clause 4(4) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2016 (LI 2016/299).

Each Party that has registered for the exemption, pursuant to Article 4, for the production and use of pentachlorophenol for utility poles and cross-arms shall take the necessary measures to ensure that utility poles and cross-arms containing pentachlorophenol can be easily identified by labelling or other means throughout their life cycles. Articles treated with pentachlorophenol should not be reused for purposes other than those exempted.

Part IX
Decabromodiphenyl ether

Schedule 1AA Annex A Part IX: inserted, on 18 December 2018, by clause 4(3) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2018 (LI 2018/256).

1. The production and use of decabromodiphenyl ether shall be eliminated except for Parties that have notified the Secretariat of their intention to produce and/or use it in accordance with Article 4.

2. Specific exemptions for parts for use in vehicles may be available for the production and use of commercial decabromodiphenyl ether limited to the following:

   (a) Parts for use in legacy vehicles, defined as vehicles that have ceased mass production, and with such parts falling into one or more of the following categories:

      (i) Powertrain and under-hood applications such as battery mass wires, battery interconnection wires, mobile air-conditioning (MAC) pipes, powertrains, exhaust manifold bushings, under-hood insulation, wiring and harness under hood (engine wiring, etc.), speed sensors, hoses, fan modules and knock sensors;

(ii) Fuel system applications such as fuel hoses, fuel tanks and fuel tanks under body;

(iii) Pyrotechnical devices and applications affected by pyrotechnical devices such as air bag ignition cables, seat covers/fabrics (only if airbag relevant) and airbags (front and side);

(iv) Suspension and interior applications such as trim components, acoustic material and seat belts.

(b) Parts in vehicles specified in paragraphs 2 (a) (i)–(iv) above and those falling into one or more of the following categories:

(i) Reinforced plastics (instrument panels and interior trim);

(ii) Under the hood or dash (terminal/fuse blocks, higher-amperage wires and cable jacketing (spark plug wires));

(iii) Electric and electronic equipment (battery cases and battery trays, engine control electrical connectors, components of radio disks, navigation satellite systems, global positioning systems and computer systems);

(iv) Fabric such as rear decks, upholstery, headliners, automobile seats, head rests, sun visors, trim panels, carpets.

3. The specific exemptions for parts specified in paragraph 2 (a) above shall expire at the end of the service life of legacy vehicles or in 2036, whichever comes earlier.

4. The specific exemptions for parts specified in paragraph 2 (b) above shall expire at the end of the service life of vehicles or in 2036, whichever comes earlier.

5. The specific exemptions for spare parts for aircraft for which type approval has been applied for before December 2018 and has been received before December 2022 shall expire at the end of the service life of those aircraft.

Part X
Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds

Schedule 1AA Annex A Part X: inserted, on 3 December 2020, by clause 4(2) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2020 (LI 2020/286).

1. The production and use of perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds shall be eliminated except for Parties that have notified the Secretariat of their intention to produce and/or use them in accordance with Article 4 of the Convention.

2. Each Party that has registered for a specific exemption pursuant to Article 4 for the use of PFOA, its salts and PFOA-related compounds for fire-fighting foam shall:

   (a) Notwithstanding paragraph 2 of Article 3, ensure that fire-fighting foam that contains or may contain PFOA, its salts and PFOA-related compounds shall not be exported or imported except for the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6;

   (b) Not use fire-fighting foam that contains or may contain PFOA, its salts and PFOA-related compounds for training;

   (c) Not use fire-fighting foam that contains or may contain PFOA, its salts and PFOA-related compounds for testing unless all releases are contained;

   (d) By the end of 2022, if it has the capacity to do so, but no later than 2025, restrict uses of fire-fighting foam that contains or may contain PFOA, its salts and PFOA-related compounds to sites where all releases can be contained;

   (e) Make determined efforts designed to lead to the environmentally sound management of fire-fighting foam stockpiles and wastes that contain or may contain PFOA, its salts and PFOA-related compounds, in accordance with paragraph 1 of Article 6, as soon as possible.

3. With regard to the specific exemption for the use of perfluorooctyl iodide for the production of perfluorooctyl bromide for the purpose of producing pharmaceutical products, at its thirteenth ordinary meeting and at every second ordinary meeting thereafter, the Conference of the Parties shall review the continued need for this specific exemption. This specific exemption shall in any case expire at the latest in 2036.

Part XI
Dechlorane Plus

Schedule 1AA Annex A Part XI: inserted, on 14 March 2025, by clause 4(2) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2025 (SL 2025/44).

1. The use of Dechlorane Plus shall be eliminated except for Parties that have notified the Secretariat of their intention to use it in accordance with Article 4.

2. Specific exemptions for the use of Dechlorane Plus for replacement parts for, and repair of, articles shall apply where Dechlorane Plus was originally used in the manufacture of those articles and may be available, limited to the following applications, until the end of the service life of the articles or 2044, whichever comes earlier:

(a) Aerospace (such as aircraft engine fan case rub strip products and void-filling and edge-sealing products, aircraft engine manufacturing repairs, electrical items, structural panels and aircraft cabin interiors);

(b) Space (such as satellites, probes and other exploration equipment, manned cabins and laboratories, heat-insulating materials for rocket motors and ground support equipment);

(c) Defence (such as naval vessels, missiles, launch platforms, ordnance, communication equipment, radar and lidar systems and support equipment);

(d) Motor vehicles (covering all land-based vehicles, such as cars, motorcycles, agricultural and construction vehicles and industrial trucks; applications include cables, wire harnesses, connectors and insulation tapes);

(e) Stationary industrial machines (such as tower cranes, concrete plants and hydraulic crushers; applications include cables, wire harnesses, connectors and insulation tapes) for use in agriculture, forestry and construction;

(f) Marine, garden, forestry and outdoor power equipment;

(g) Instruments for analysis, measurements, control, monitoring, testing, production and inspection.

3. Specific exemptions for the use of Dechlorane Plus for replacement parts for, and repair of, articles shall apply where Dechlorane Plus was originally used in the manufacture of those articles and may be available, limited to the following applications, until the end of the service life of those articles, subject to review by the Conference of the Parties no later than 2041:

(a) Medical devices (such as ultrasound diagnostic devices, magnetic resonance imaging systems, X-ray imaging systems, flexible endoscopes and radiotherapy devices and installations);

(b) In-vitro diagnostic devices (such as immunoassay analysers, haematology analysers, polymerase chain reaction (PCR) testing systems, genetic analysers, clinical chemistry analysers, blood coagulation analysers and urinalysis analysers).

Part XII
UV-328

Schedule 1AA Annex A Part XII: inserted, on 14 March 2025, by clause 4(2) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2025 (SL 2025/44).

1. The production and use of UV-328 shall be eliminated except for Parties that have notified the Secretariat of their intention to produce and/or use it in accordance with Article 4.

2. Specific exemptions for the production and use of UV-328 for replacement parts for articles shall apply where UV-328 was originally used in the manufacture of those articles and may be available, limited to the following applications, until the end of the service life of the articles or 2044, whichever comes earlier:

   (a) Motor vehicles (covering all land-based vehicles, such as cars, motorcycles, agricultural and construction vehicles and industrial trucks);

   (b) Stationary industrial machines (such as tower cranes, concrete plants and hydraulic crushers) for use in agriculture, forestry and construction;

   (c) Liquid crystal displays in instruments for analysis, measurements, control, monitoring, testing, production and inspection (such as recorders, infrared radiation thermometers, digital storage oscilloscopes and radiographic testing instruments) other than for medical applications.

3. Specific exemptions for the use of UV-328 for replacement parts for articles for the following applications for medical purposes shall apply where UV-328 was originally used in the manufacture of those articles and may be available until the end of the service life of those articles, subject to review by the Conference of the Parties no later than 2041:

   (a) Liquid crystal displays in medical and in-vitro diagnostic devices (such as ultrasound diagnostic devices, flexible endoscopes, immunoassay analysers, clinical chemistry analysers and blood coagulation analysers);

   (b) Liquid crystal displays in instruments for analysis, measurements, control, monitoring, testing, production and inspection (such as recorders, infrared radiation thermometers, digital storage oscilloscopes and radiographic testing instruments).

Annex B
Restriction

Part I

Chemical	Activity	Acceptable purpose or specific exemption
DDT (1,1,1-trichloro-2,2-bis(4-chlorophenyl)ethane) CAS NO: 50-29-3	Production	Acceptable purpose: Disease vector control use in accordance with Part II of this Annex Specific exemption: Intermediate in production of dicofol Intermediate
	Use	Acceptable purpose: Disease vector control in accordance with Part II of this Annex Specific exemption: Production of dicofol Intermediate
Perfluorooctane sulfonic acid (CAS No. 1763-23-1), its salts[a] and perfluorooctane sulfonyl fluoride (CAS No. 307-35-7)	Production	Acceptable purpose: In accordance with Part III of this Annex, production of other chemicals to be used solely for the use below. Production for uses listed below.
[a]For example: potassium perfluorooctane sulfonate (CAS No. 2795-39-3); lithium perfluorooctane sulfonate (CAS No. 29457-72-5); ammonium perfluorooctane sulfonate (CAS No. 29081-56-9); diethanolammonium perfluorooctane sulfonate (CAS No. 70225-14-8); tetraethylammonium perfluorooctane sulfonate (CAS No. 56773-42-3); didecyldimethylammonium perfluorooctane sulfonate (CAS No. 251099-16-8)		Specific exemption: None
	Use	Acceptable purpose: In accordance with Part III of this Annex for the following acceptable purpose, or as an intermediate in the production of chemicals with the following acceptable purpose: • Insect baits with sulfluramid (CAS No. 4151-50-2) as an active ingredient for control of leaf-cutting ants from *Atta* spp. and *Acromyrmex* spp. for agricultural use only

Chemical	Activity	Acceptable purpose or specific exemption
		Specific exemption: • Metal plating (hard-metal plating) only in closed-loop systems • Fire-fighting foam for liquid fuel vapour suppression and liquid fuel fires (Class B fires) in installed systems, including both mobile and fixed systems, in accordance with paragraph 10 of Part III of this Annex

Notes:

(i) Except as otherwise specified in this Convention, quantities of a chemical occurring as unintentional trace contaminants in products and articles shall not be considered to be listed in this Annex;

(ii) This note shall not be considered as a production and use acceptable purpose or specific exemption for purposes of paragraph 2 of Article 3. Quantities of a chemical occurring as constituents of articles manufactured or already in use before or on the date of entry into force of the relevant obligation with respect to that chemical, shall not be considered as listed in this Annex, provided that a Party has notified the Secretariat that a particular type of article remains in use within that Party. The Secretariat shall make such notifications publicly available;

(iii) This note shall not be considered as a production and use specific exemption for purposes of paragraph 2 of Article 3. Given that no significant quantities of the chemical are expected to reach humans and the environment during the production and use of a closed-system site-limited intermediate, a Party, upon notification to the Secretariat, may allow the production and use of quantities of a chemical listed in this Annex as a closed-system site-limited intermediate that is chemically transformed in the manufacture of other chemicals that, taking into consideration the criteria in paragraph 1 of Annex D, do not exhibit the characteristics of persistent organic pollutants. This notification shall include information on total production and use of such chemical or a reasonable estimate of such information and information regarding the nature of the closed-system site-limited process including the amount of any non-transformed and unintentional trace contamination of the persistent organic pollutant-starting material in the final product. This procedure applies except as otherwise specified in this Annex. The Secretariat shall make such notifications available to the Conference of the Parties and to the public. Such production or use shall not be considered a production or use specific exemption. Such production and use shall cease after a ten-year period, unless the Party concerned submits a new notification to the Secretariat, in which case the period will be extended for an additional ten years unless the Conference of the Parties, after a review

of the production and use decides otherwise. The notification procedure can be repeated;

(iv) All the specific exemptions in this Annex may be exercised by Parties that have registered in respect of them in accordance with Article 4.

Schedule 1AA Annex B Part I table: substituted, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 1AA Annex B Part I table: amended, on 3 December 2020, by clause 4(3) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2020 (SR 2020/286).

Part II
DDT (1,1,1-trichloro-2,2-bis(4-chlorophenyl)ethane)

1. The production and use of DDT shall be eliminated except for Parties that have notified the Secretariat of their intention to produce and/or use it. A DDT Register is hereby established and shall be available to the public. The Secretariat shall maintain the DDT Register.

2. Each Party that produces and/or uses DDT shall restrict such production and/or use for disease vector control in accordance with the World Health Organization recommendations and guidelines on the use of DDT and when locally safe, effective and affordable alternatives are not available to the Party in question.

3. In the event that a Party not listed in the DDT Register determines that it requires DDT for disease vector control, it shall notify the Secretariat as soon as possible in order to have its name added forthwith to the DDT Register. It shall at the same time notify the World Health Organization.

4. Every three years, each Party that uses DDT shall provide to the Secretariat and the World Health Organization information on the amount used, the conditions of such use and its relevance to that Party's disease management strategy, in a format to be decided by the Conference of the Parties in consultation with the World Health Organization.

5. With the goal of reducing and ultimately eliminating the use of DDT, the Conference of the Parties shall encourage:

   (a) Each Party using DDT to develop and implement an action plan as part of the implementation plan specified in Article 7. That action plan shall include:

      (i) Development of regulatory and other mechanisms to ensure that DDT use is restricted to disease vector control;

      (ii) Implementation of suitable alternative products, methods and strategies, including resistance management strategies to ensure the continuing effectiveness of these alternatives;

      (iii) Measures to strengthen health care and to reduce the incidence of the disease.

(b) The Parties, within their capabilities, to promote research and development of safe alternative chemical and non-chemical products, methods and strategies for Parties using DDT, relevant to the conditions of those countries and with the goal of decreasing the human and economic burden of disease. Factors to be promoted when considering alternatives or combinations of alternatives shall include the human health risks and environmental implications of such alternatives. Viable alternatives to DDT shall pose less risk to human health and the environment, be suitable for disease control based on conditions in the Parties in question and be supported with monitoring data.

6. Commencing at its first meeting, and at least every three years thereafter, the Conference of the Parties shall, in consultation with the World Health Organization, evaluate the continued need for DDT for disease vector control on the basis of available scientific, technical, environmental and economic information, including:

(a) The production and use of DDT and the conditions set out in paragraph 2;

(b) The availability, suitability and implementation of the alternatives to DDT; and

(c) Progress in strengthening the capacity of countries to transfer safely to reliance on such alternatives.

7. A Party may, at any time, withdraw its name from the DDT Registry upon written notification to the Secretariat. The withdrawal shall take effect on the date specified in the notification.

Part III
Perfluorooctane sulfonic acid, its salts and perfluorooctane sulfonyl fluoride

Schedule 1AA Annex B Part III: added, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

1. The production and use of perfluorooctane sulfonic acid (PFOS), its salts and perfluorooctane sulfonyl fluoride (PFOSF) shall be eliminated by all Parties except as provided in Part I of this Annex for Parties that have notified the Secretariat of their intention to produce and/or use them for acceptable purposes. A Register of Acceptable Purposes is hereby established and shall be available to the public. The Secretariat shall maintain the Register of Acceptable Purposes. In the event that a Party not listed in the Register determines that it requires the use of PFOS, its salts or PFOSF for the acceptable purposes listed in Part I of this Annex it shall notify the Secretariat as soon as possible in order to have its name added forthwith to the Register.

2. Parties that produce and/or use these chemicals shall take into account, as appropriate, guidance such as that given in the relevant parts of the general guidance on best available techniques and best environmental practices given in Part V of Annex C of the Convention.

3. Every four years, each Party that uses and/or produces these chemicals shall report on progress made to eliminate PFOS, its salts and PFOSF and submit information on such progress to the Conference of the Parties pursuant to and in the process of reporting under Article 15 of the Convention.

4. With the goal of reducing and ultimately eliminating the production and/or use of these chemicals, the Conference of the Parties shall encourage:

   (a) Each Party using these chemicals to take action to phase out uses when suitable alternatives substances or methods are available;

   (b) Each Party using and/or producing these chemicals to develop and implement an action plan as part of the implementation plan specified in Article 7 of the Convention;

   (c) The Parties, within their capabilities, to promote research on and development of safe alternative chemical and non-chemical products and processes, methods and strategies for Parties using these chemicals, relevant to the conditions of those Parties. Factors to be promoted when considering alternatives or combinations of alternatives shall include the human health risks and environmental implications of such alternatives.

5. The Conference of the Parties shall evaluate the continued need for these chemicals for the various acceptable purposes and specific exemptions on the basis of available scientific, technical, environmental and economic information, including:

   (a) Information provided in the reports described in paragraph 3;

   (b) Information on the production and use of these chemicals;

   (c) Information on the availability, suitability and implementation of alternatives to these chemicals;

   (d) Information on progress in building the capacity of countries to transfer safely to reliance on such alternatives.

6. The evaluation referred to in the preceding paragraph shall take place no later than in 2015 and every four years thereafter, in conjunction with a regular meeting of the Conference of the Parties.

7. Due to the complexity of the use and the many sectors of society involved in the use of these chemicals, there might be other uses of these chemicals of which countries are not presently aware. Parties which become aware of other uses are encouraged to inform the Secretariat as soon as possible.

8. A Party may, at any time, withdraw its name from the Register of acceptable purposes upon written notification to the Secretariat. The withdrawal shall take effect on the date specified in the notification.

9. The provisions of note (iii) of Part I of Annex B shall not apply to these chemicals.

10. Each Party that has registered for an exemption pursuant to Article 4 for the use of PFOS, its salts and PFOSF for fire-fighting foam shall:

    (a) Notwithstanding paragraph 2 of Article 3, ensure that fire-fighting foam that contains or may contain PFOS, its salts and PFOSF shall not be exported or imported except for the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6;

    (b) Not use fire-fighting foam that contains or may contain PFOS, its salts and PFOSF for training;

    (c) Not use fire-fighting foam that contains or may contain PFOS, its salts and PFOSF for testing unless all releases are contained;

    (d) By the end of 2022, if it has the capacity to do so, restrict uses of fire-fighting foam that contains or may contain PFOS, its salts and PFOSF to sites where all releases can be contained;

    (e) Make determined efforts designed to lead to the environmentally sound management of fire-fighting foam stockpiles and wastes that contain or may contain PFOS, its salts and PFOSF, in accordance with paragraph 1 of Article 6, as soon as possible.

Schedule 1AA Annex B Part III paragraph 10: inserted, on 3 December 2020, by clause 4(4) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2020 (LI 2020/286).

Annex C
Unintentional production

Part I
Persistent organic pollutants subject to the requirements of Article 5

This Annex applies to the following persistent organic pollutants when formed and released unintentionally from anthropogenic sources:

Chemical
Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/PCDF)
Polychlorinated naphthalenes, including dichlorinated naphthalenes, trichlorinated naphthalenes, tetrachlorinated napthalenes, pentachlorinated napthalenes, hexachlorinated naphthalenes, heptachlorinated naphthalenes, octachlorinated naphthalene
Hexachlorobenzene (HCB) (CAS No: 118-74-1)
Hexachlorobutadiene (CAS No: 87-68-3)
Pentachlorobenzene (PeCB) (CAS No: 608-93-5)
Polychlorinated biphenyls (PCB)

Schedule 1AA Annex C Part I table: amended, on 18 December 2018, by clause 4(4) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2018 (LI 2018/256).

Schedule 1AA Annex C Part I table: amended, on 15 December 2016, by clause 4(5) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2016 (LI 2016/299).

Schedule 1AA Annex C Part I table: amended, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Part II
Source categories

Hexachlorobenzene, hexachlorobutadiene, pentachlorobenzene, polychlorinated biphenyls, polychlorinated dibenzo-p-dioxins and dibenzofurans, polychlorinated naphthalenes, including dichlorinated naphthalenes, trichlorinated naphthalenes, tetrachlorinated napthalenes, pentachlorinated napthalenes, hexachlorinated naphthalenes, heptachlorinated naphthalenes, octachlorinated naphthalene, are unintentionally formed and released from thermal processes involving organic matter and chlorine as a result of incomplete combustion or chemical reactions. The following industrial source categories have the potential for comparatively high formation and release of these chemicals to the environment:

(a) Waste incinerators, including co-incinerators of municipal, hazardous or medical waste or of sewage sludge;

(b) Cement kilns firing hazardous waste;

(c) Production of pulp using elemental chlorine or chemicals generating elemental chlorine for bleaching;

(d) The following thermal processes in the metallurgical industry:

  (i) Secondary copper production;

  (ii) Sinter plants in the iron and steel industry;

(iii) Secondary aluminium production;

(iv) Secondary zinc production.

Schedule 1AA Annex C Part II: amended, on 18 December 2018, by clause 4(5) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2018 (LI 2018/256).

Schedule 1AA Annex C Part II: amended, on 18 December 2018, by clause 4(6) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2018 (LI 2018/256).

Schedule 1AA Annex C Part II: amended, on 15 December 2016, by clause 4(6) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2016 (LI 2016/299).

Schedule 1AA Annex C Part II: amended, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Part III
Source categories

Hexachlorobenzene, hexachlorobutadiene, pentachlorobenzene, polychlorinated biphenyls, polychlorinated dibenzo-p-dioxins and dibenzofurans, polychlorinated naphthalenes, including dichlorinated naphthalenes, trichlorinated naphthalenes, tetrachlorinated napthalenes, pentachlorinated napthalenes, hexachlorinated naphthalenes, heptachlorinated naphthalenes, octachlorinated naphthalene, may also be unintentionally formed and released from the following source categories, including:

(a) Open burning of waste, including burning of landfill sites;

(b) Thermal processes in the metallurgical industry not mentioned in Part II;

(c) Residential combustion sources;

(d) Fossil fuel-fired utility and industrial boilers;

(e) Firing installations for wood and other biomass fuels;

(f) Specific chemical production processes releasing unintentionally formed persistent organic pollutants, especially production of chlorophenols and chloranil;

(g) Crematoria;

(h) Motor vehicles, particularly those burning leaded gasoline;

(i) Destruction of animal carcasses;

(j) Textile and leather dyeing (with chloranil) and finishing (with alkaline extraction);

(k) Shredder plants for the treatment of end of life vehicles;

(l) Smouldering of copper cables;

(m) Waste oil refineries.

Schedule 1AA Annex C Part III: amended, on 18 December 2018, by clause 4(7) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2018 (LI 2018/256).

Schedule 1AA Annex C Part III: amended, on 18 December 2018, by clause 4(8) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2018 (LI 2018/256).

Schedule 1AA Annex C Part III: amended, on 15 December 2016, by clause 4(7) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2016 (LI 2016/299).

Schedule 1AA Annex C Part III: amended, on 18 August 2011, by clause 3 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Part IV
Definitions

1. For the purposes of this Annex:

   (a) "Polychlorinated biphenyls" means aromatic compounds formed in such a manner that the hydrogen atoms on the biphenyl molecule (two benzene rings bonded together by a single carbon-carbon bond) may be replaced by up to ten chlorine atoms; and

   (b) "Polychlorinated dibenzo-p-dioxins" and "polychlorinated dibenzofurans" are tricyclic, aromatic compounds formed by two benzene rings connected by two oxygen atoms in polychlorinated dibenzo-p-dioxins and by one oxygen atom and one carbon-carbon bond in polychlorinated dibenzofurans and the hydrogen atoms of which may be replaced by up to eight chlorine atoms.

2. In this Annex, the toxicity of polychlorinated dibenzo-p-dioxins and dibenzofurans is expressed using the concept of toxic equivalency which measures the relative dioxin-like toxic activity of different congeners of polychlorinated dibenzo-p-dioxins and dibenzofurans and coplanar polychlorinated biphenyls in comparison to 2,3,7,8-tetrachlorodibenzo-p-dioxin. The toxic equivalent factor values to be used for the purposes of this Convention shall be consistent with accepted international standards, commencing with the World Health Organization 1998 mammalian toxic equivalent factor values for polychlorinated dibenzo-p-dioxins and dibenzofurans and coplanar polychlorinated biphenyls. Concentrations are expressed in toxic equivalents.

Part V
General guidance on best available techniques and best environmental practices

This Part provides general guidance to Parties on preventing or reducing releases of the chemicals listed in Part I.

A.—General prevention measures relating to both best available techniques and best environmental practices

Priority should be given to the consideration of approaches to prevent the formation and release of the chemicals listed in Part I. Useful measures could include:

(a) The use of low-waste technology;

(b) The use of less hazardous substances;

(c) The promotion of the recovery and recycling of waste and of substances generated and used in a process;

(d) Replacement of feed materials which are persistent organic pollutants or where there is a direct link between the materials and releases of persistent organic pollutants from the source;

(e) Good housekeeping and preventive maintenance programmes;

(f) Improvements in waste management with the aim of the cessation of open and other uncontrolled burning of wastes, including the burning of landfill sites. When considering proposals to construct new waste disposal facilities, consideration should be given to alternatives such as activities to minimize the generation of municipal and medical waste, including resource recovery, reuse, recycling, waste separation and promoting products that generate less waste. Under this approach, public health concerns should be carefully considered;

(g) Minimization of these chemicals as contaminants in products;

(h) Avoiding elemental chlorine or chemicals generating elemental chlorine for bleaching.

B.—Best available techniques

The concept of best available techniques is not aimed at the prescription of any specific technique or technology, but at taking into account the technical characteristics of the installation concerned, its geographical location and the local environmental conditions. Appropriate control techniques to reduce releases of the chemicals listed in Part I are in general the same. In determining best available techniques, special consideration should be given, generally or in specific cases, to the following factors, bearing in mind the likely costs and benefits of a measure and consideration of precaution and prevention:

(a) General considerations:

(i) The nature, effects and mass of the releases concerned: techniques may vary depending on source size;

(ii) The commissioning dates for new or existing installations;

(iii) The time needed to introduce the best available technique;

(iv) The consumption and nature of raw materials used in the process and its energy efficiency;

(v) The need to prevent or reduce to a minimum the overall impact of the releases to the environment and the risks to it;

(vi) The need to prevent accidents and to minimize their consequences for the environment;

(vii) The need to ensure occupational health and safety at workplaces;

(viii) Comparable processes, facilities or methods of operation which have been tried with success on an industrial scale;

(ix) Technological advances and changes in scientific knowledge and understanding.

(b) General release reduction measures: When considering proposals to construct new facilities or significantly modify existing facilities using processes that release chemicals listed in this Annex, priority consideration should be given to alternative processes, techniques or practices that have similar usefulness but which avoid the formation and release of such chemicals. In cases where such facilities will be constructed or significantly modified, in addition to the prevention measures outlined in section A of Part V the following reduction measures could also be considered in determining best available techniques:

(i) Use of improved methods for flue-gas cleaning such as thermal or catalytic oxidation, dust precipitation, or adsorption;

(ii) Treatment of residuals, wastewater, wastes and sewage sludge by, for example, thermal treatment or rendering them inert or chemical processes that detoxify them;

(iii) Process changes that lead to the reduction or elimination of releases, such as moving to closed systems;

(iv) Modification of process designs to improve combustion and prevent formation of the chemicals listed in this Annex, through the control of parameters such as incineration temperature or residence time.

C.—Best environmental practices

The Conference of the Parties may develop guidance with regard to best environmental practices.

Annex D
Information requirements and screening criteria

1. A Party submitting a proposal to list a chemical in Annexes A, B and/or C shall identify the chemical in the manner described in subparagraph (a) and provide the information on the chemical, and its transformation products where relevant, relating to the screening criteria set out in subparagraphs (b) to (e):

(a) Chemical identity:

(i) Names, including trade name or names, commercial name or names and synonyms, Chemical Abstracts Service (CAS) Registry number, International Union of Pure and Applied Chemistry (IUPAC) name; and

(ii) Structure, including specification of isomers, where applicable, and the structure of the chemical class;

(b) Persistence:

(i) Evidence that the half-life of the chemical in water is greater than two months, or that its half-life in soil is greater than six months, or that its half-life in sediment is greater than six months; or

(ii) Evidence that the chemical is otherwise sufficiently persistent to justify its consideration within the scope of this Convention;

(c) Bio-accumulation:

(i) Evidence that the bio-concentration factor or bio-accumulation factor in aquatic species for the chemical is greater than 5,000 or, in the absence of such data, that the log Kow is greater than 5;

(ii) Evidence that a chemical presents other reasons for concern, such as high bio-accumulation in other species, high toxicity or ecotoxicity; or

(iii) Monitoring data in biota indicating that the bio-accumulation potential of the chemical is sufficient to justify its consideration within the scope of this Convention;

(d) Potential for long-range environmental transport:

(i) Measured levels of the chemical in locations distant from the sources of its release that are of potential concern;

(ii) Monitoring data showing that long-range environmental transport of the chemical, with the potential for transfer to a receiving environment, may have occurred via air, water or migratory species; or

(iii) Environmental fate properties and/or model results that demonstrate that the chemical has a potential for long-range environmental transport through air, water or migratory species, with the potential for transfer to a receiving environment in locations dis-

tant from the sources of its release. For a chemical that migrates significantly through the air, its half-life in air should be greater than two days; and

(e) Adverse effects:

(i) Evidence of adverse effects to human health or to the environment that justifies consideration of the chemical within the scope of this Convention; or

(ii) Toxicity or ecotoxicity data that indicate the potential for damage to human health or to the environment.

2. The proposing Party shall provide a statement of the reasons for concern including, where possible, a comparison of toxicity or ecotoxicity data with detected or predicted levels of a chemical resulting or anticipated from its long-range environmental transport, and a short statement indicating the need for global control.

3. The proposing Party shall, to the extent possible and taking into account its capabilities, provide additional information to support the review of the proposal referred to in paragraph 6 of Article 8. In developing such a proposal, a Party may draw on technical expertise from any source.

Annex E
Information requirements for the risk profile

The purpose of the review is to evaluate whether the chemical is likely, as a result of its long-range environmental transport, to lead to significant adverse human health and/or environmental effects, such that global action is warranted. For this purpose, a risk profile shall be developed that further elaborates on, and evaluates, the information referred to in Annex D and includes, as far as possible, the following types of information:

(a) Sources, including as appropriate:

  (i) Production data, including quantity and location;

  (ii) Uses; and

  (iii) Releases, such as discharges, losses and emissions;

(b) Hazard assessment for the endpoint or endpoints of concern, including a consideration of toxicological interactions involving multiple chemicals;

(c) Environmental fate, including data and information on the chemical and physical properties of a chemical as well as its persistence and how they are linked to its environmental transport, transfer within and between environmental compartments, degradation and transformation to other chemicals. A determination of the bio-concentration factor or bio-accumulation factor, based on measured values, shall be available, except when monitoring data are judged to meet this need;

(d) Monitoring data;

(e) Exposure in local areas and, in particular, as a result of long-range environmental transport, and including information regarding bio-availability;

(f) National and international risk evaluations, assessments or profiles and labelling information and hazard classifications, as available; and

(g) Status of the chemical under international conventions.

Annex F
Information on socio-economic considerations

An evaluation should be undertaken regarding possible control measures for chemicals under consideration for inclusion in this Convention, encompassing the full range of options, including management and elimination. For this purpose, relevant information should be provided relating to socio-economic considerations associated with possible control measures to enable a decision to be taken by the Conference of the Parties. Such information should reflect due regard for the differing capabilities and conditions among the Parties and should include consideration of the following indicative list of items:

(a) Efficacy and efficiency of possible control measures in meeting risk reduction goals:

  (i) Technical feasibility; and

  (ii) Costs, including environmental and health costs;

(b) Alternatives (products and processes):

  (i) Technical feasibility;

  (ii) Costs, including environmental and health costs;

  (iii) Efficacy;

  (iv) Risk;

  (v) Availability; and

  (vi) Accessibility;

(c) Positive and/or negative impacts on society of implementing possible control measures:

  (i) Health, including public, environmental and occupational health;

  (ii) Agriculture, including aquaculture and forestry;

  (iii) Biota (biodiversity);

  (iv) Economic aspects;

  (v) Movement towards sustainable development; and

  (vi) Social costs;

(d) Waste and disposal implications (in particular, obsolete stocks of pesticides and clean-up of contaminated sites):

  (i) Technical feasibility; and

  (ii) Cost;

(e) Access to information and public education;

(f) Status of control and monitoring capacity; and

(g) Any national or regional control actions taken, including information on alternatives, and other relevant risk management information.

Schedule 1
Provisions relating to Environmental Risk Management Authority

[Repealed]

s 18

Schedule 1: repealed, on 1 July 2011, by section 11 of the Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16).

Schedule 2
Prohibited new organisms

ss 25(2), 50(1)–(4)

Schedule 2: substituted, on 30 October 2003, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

1 Any snake of any species whatever.

2 Any venomous reptile, venomous amphibian, venomous fish, or venomous invertebrate. (In this item, **venomous** means capable of inflicting poisonous wounds harmful to human health.)

3 Any American grey squirrel (*Sciurus carolinensis gmelini*).

4 Any red squirrel (*Sciurus vulgaris*).

5 Any musquash (or muskrat) (*Ondatra zibethica*).

6 Any coypu or nutria (*Myocastor coypus*).

7 Any beaver (*Castor canadensis*).

8 Any gerbil (*Meriones unguiculatus*).

9 Any prairie dog (*Cyonomys* spp).

10 Any pocket gopher (*Geomys* spp and *Thomomys* spp).

11 Any red or silver fox (*Vulpes vulpes*).

12 Any Arctic fox (*Alopex lagopus*).

13 Any mongoose (family Herpestidae) other than *Suricata suricatta*.

14 Any member of the family Mustelidae, subfamily Mustelinae, other than ferrets (*Mustela furo*), weasels (*Mustela nivalis*), and stoats (*Mustela erminea*), and subfamily Lutrinae, other than oriental small clawed otter (*Aonyx cineria*).

15 Any mole (family Talpidae).

16 Any member of the family Esocidae (eg, pikes, muskellunge).

17 Any member of the families Phalangeridae and Petauridae, other than the Australian brushtail possum (*Trichosurus vulpecula*).

18 Any stickleback (*Gasterosteus* spp).

19 Any giant African snail (*Achatina* spp).

20 Any predatory snail (*Euglandina rosea*).

21 Any cane toad (*Bufo marinus*).

22 Negro root (*Cassia occidentalis*).

23 Skeleton weed (*Chondrilla juncea*).

24 *Cymbopogon schoenanthus*.

25 *Cynanchum* (all species), eg, Indian swallowart.

26 Hairy thorn apple (*Datura metel*).

27 *Ephedra sinica*.

28 Leafy spurge (*Euphorbia esula*).

29 Star of Bethlehem, Pua-hoku (*Hippobroma longiflora*).

30 Poverty weed (*Iva axillaris*).

31 Any member of the family Loranthaceae (eg mistletoe), other than *Alepis flavida*, *Lleostylus micranthus*, *Peraxilla colensoi*, *Peraxilla tetrapetala*, *Trilepidea adamsii*, and *Tupeia antarctica*.

32 Any member of the genus *Korthalsella* other than *Korthalsella clavata*, *Korthalsella lindsayi*, and *Korthalsella salicornioides*.

33 Butterbur (*Petasites hybridus*).

34 Witchweed (all species) (*Striga*).

35 Strychnine (*Strychnos nux-vomica*).

36 *Tourrettia volubilis*.

37 Puncture vine (*Tribulus terrestris*).

Schedule 2A
Persistent organic pollutants

s 2(1)

Schedule 2A: inserted, on 23 December 2004, by section 19 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Substance	Use or storage	Manufacture	Expiry of permitted use or storage
Aldrin CAS No: 309-00-2			
Alpha hexachlorocyclohexane CAS No: 319-84-6			
Beta hexachlorocyclohexane CAS No: 319-85-7			
Chlordane CAS No: 57-74-9			
Chlordecone CAS No: 143-50-0			
DDT (1,1,1-trichloro-2,2-bis(4-chlorophenyl)ethane) CAS No: 50-29-3			
Decabromodiphenyl ether (BDE-209) present in commercial decabromodiphenyl ether CAS No: 1163-19-5	(a) parts for use in vehicles, including vehicles containing those parts: (b) aircraft for which type approval has been applied for before December 2018 and has been received before December 2022 and spare parts for those aircraft: (c) articles where DecaBDE has been used as an additive in plastics (such as in electrical and electronic equipment, wires, cables, and pipes), in textiles (such as in carpets, upholstery, window blinds and curtains, and mattresses), and in adhesives, sealants, and coatings—present in New Zealand before 18 December 2018		(a) end of the service life of vehicles or in 2036, whichever comes earlier: (b) end of the service life of those aircraft: (c) (no expiry date)

Substance	Use or storage	Manufacture	Expiry of permitted use or storage
Dechlorane Plus CAS No: 13560-89-9 "Dechlorane Plus" includes its *syn*-isomer (CAS No: 135821-03-3) and its *anti*-isomer (CAS No: 135821-74-8)	(a) aerospace applications:		(a) 25 February 2030:
	(b) space applications:		(b) 25 February 2030:
	(c) defence applications:		(c) 25 February 2030:
	(d) medical imaging and radiotherapy devices and installations:		(d) 25 February 2030:
	(e) replacement parts for, and repair of, articles where Dechlorane Plus was used in the manufacture of those articles in the following applications:		(e) end of the service life of the articles or 31 December 2043, whichever comes earlier:
	(i) aerospace:		
	(ii) space:		
	(iii) defence:		(f) end of the service life of the articles:
	(iv) land-based motor vehicles:		
	(v) stationary industrial machines for use in agriculture, forestry, and construction:		(g) (no expiry date)
	(vi) marine, garden, forestry, and outdoor power equipment:		
	(vii) instruments for analysis, measurements, control, monitoring, testing, production, and inspection (other than for medical devices or in-vitro diagnostic devices):		
	(f) replacement parts for, and repair of, articles where Dechlorane Plus was used in the manufacture of those articles in the following applications:		
	(i) medical devices:		
	(ii) in-vitro diagnostic devices:		
	(g) articles where Dechlorane Plus has been used as an additive in adhesives, sealants, polymers, cables and wires, wire harnesses, and connectors (in applications such		

Substance	Use or storage	Manufacture	Expiry of permitted use or storage
	as land-based motor vehicles, power equipment, industrial machinery, marine machinery, garden machinery, forestry machinery, medical equipment, aerospace, defence, electrical equipment, electronic equipment, air conditioning, and heat pumps) present in New Zealand on or before 26 February 2025		
Dicofol CAS No. 115-32-2 CAS No. 10606-46-9			
Dieldrin CAS No: 60-57-1			
Endrin CAS No: 72-20-8			
Heptachlor CAS No: 76-44-8			
Hexabromobiphenyl CAS No: 36355-01-8			
Hexabromocyclododecane	expanded polystyrene and extruded polystyrene (in accordance with an "articles in use notification" under note (ii) of Annex A of the Stockholm Convention)	manufactured before 1 January 2017	(no expiry date)
Hexabromodiphenyl ether and heptabromodiphenyl ether			
Hexachlorobenzene CAS No: 118-74-1			
Hexachlorobutadiene CAS No: 87-68-3			
Lindane CAS No: 58-89-9	In accordance with an exemption registered under article 4 of the Stockholm Convention: Human health pharmaceutical for control of head lice and scabies as second line treatment		25 August 2015
Methoxychlor "Methoxychlor" refers to any isomer of dimethoxydiphenyltri-chloroethane or any combination of isomers For example: CAS No: 72-43-5; CAS No: 30667-99-3; CAS No: 76733-77-2;			

Substance	Use or storage	Manufacture	Expiry of permitted use or storage
CAS No: 255065-25-9; CAS No: 255065-26-0; CAS No: 59424-81-6; CAS No: 1348358-72-4			
Mirex CAS No: 2385-85-5			
Pentachlorobenzene CAS No: 608-93-5			
Pentachlorophenol and its salts and esters			
Perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds			
"Perfluorohexane sulfonic acid (PFHxS), its salts and PFHxS-related compounds" means the following: (a) perfluorohexane sulfonic acid (PFHxS; CAS No. 355-46-4), including any of its branched isomers: (b) its salts: (c) any substance that contains the chemical moiety $C_6F_{13}SO_2$- as one of its structural elements and that potentially degrades to PFHxS			
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			
Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds "Perfluorooctanoic acid (PFOA), its salts and PFOA-related compounds" means the following: (a) perfluorooctanoic acid (PFOA; CAS No. 335-67-1), including any of its branched isomers: (b) its salts:	(a) photographic coatings applied to films: (b) fire-fighting foam for liquid fuel vapour suppression and liquid fuel fires (Class B fires) in installed systems, including both mobile and fixed systems, in accordance with paragraph 2 of Part X of Annex A of the Stockholm Convention: (c) articles where PFOA, its salts and PFOA-related		(a) 3 December 2025 (b) 3 December 2025 (c) no expiry date

Substance	Use or storage	Manufacture	Expiry of permitted use or storage
(c) PFOA-related compounds which, for the purposes of the Stockholm Convention, are any substances that degrade to PFOA, including any substances (including salts and polymers) having a linear or branched perfluoroheptyl group with the moiety $(C_7F_{15})C$ as one of the structural elements	compounds have been in use, such as in coated textiles, papers, fluoropolymer membranes, or medical devices, in New Zealand on or before 3 December 2020		
The following compounds are not included as PFOA-related compounds:			
(a) C_8F_{17}-X, where X= F, Cl, Br:			
(b) fluoropolymers that are covered by $CF_3[CF_2]_n$-R', where R'=any group, n>16:			
(c) perfluoroalkyl carboxylic and phosphonic acids (including their salts, esters, halides and anhydrides) with ≥8 perfluorinated carbons:			
(d) perfluoroalkane sulfonic acids (including their salts, esters, halides and anhydrides) with ≥9 perfluorinated carbons:			
(e) perfluorooctane sulfonic acid (PFOS), its salts and perfluorooctane sulfonyl fluoride (PFOSF), as listed in Annex B to the Stockholm Convention			

Substance	Use or storage	Manufacture	Expiry of permitted use or storage
Polychlorinated Biphenyls (PCB)	in accordance with an exemption— (a) granted under regulation 49I or regulation 49J of the Toxic Substances Regulations 1983; and (b) that is in force immediately before the commencement of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003		at the expiry of— (a) the exemption; or (b) an extension of the expiry of the exemption (being not later than the close of 2016) granted by the Authority
Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/PCDF)			
Polychlorinated naphthalenes, including dichlorinated naphthalenes, trichlorinated naphthalenes, tetrachlorinated napthalenes, pentachlorinated napthalenes, hexachlorinated naphthalenes, heptachlorinated naphthalenes, octachlorinated naphthalene			
Short-chain chlorinated paraffins (Alkanes, C_{10-13}, chloro): straight-chain chlorinated hydrocarbons with chain lengths ranging from C_{10} to C_{13} and a content of chlorine greater than 48 per cent by weight. The listing includes quantities of this chemical that occurs in mixtures at concentrations greater than or equal to 1 per cent by weight, as specified under note (vii) of Part 1 of Annex A of the Stockholm Convention	Articles where SCCPs have been used as additives in rubber and plastic goods, in adhesives and sealants, and as water-proofing and flame-retardant agents for textiles—present in New Zealand before 18 December 2018		(no expiry date)
Technical endosulfan (CAS No: 115-29-7) and its related isomers (CAS No: 959-98-8 and CAS No: 33213-65-9)			
Tetrabromodiphenyl ether and pentabromodiphenyl ether			
Toxaphene CAS No: 8001-35-2			

Substance	Use or storage	Manufacture	Expiry of permitted use or storage
UV-328 CAS No: 25973-55-1 Phenol, 2-(*2H*-benzotriazol-2-yl)-4,6-*bis*(1,1-dimethylpropyl)-	(a) parts of land-based motor vehicles:		(a) 25 February 2030:
	(b) industrial coating applications for land-based motor vehicles, engineering machines, and rail transportation vehicles, and heavy-duty coatings for large steel structures:		(b) 25 February 2030:
	(c) mechanical separators in blood collection tubes:		(c) 25 February 2030:
	(d) triacetyl cellulose (TAC) film in polarizers:		(d) 25 February 2030:
	(e) photographic paper:		(e) 25 February 2030:
	(f) replacement parts for articles where UV-328 was used in the manufacture of those articles in the following applications: (i) land-based motor vehicles: (ii) stationary industrial machines for use in agriculture, forestry, and construction: (iii) liquid crystal displays in instruments for analysis, measurements, control, monitoring, testing, production, and inspection (other than for medical applications):		(f) end of the service life of the articles or 31 December 2043, whichever comes earlier:
	(g) replacement parts for articles where UV-328 was used in the manufacture of those articles in the following applications for medical purposes: (i) liquid crystal displays in medical devices and in-vitro diagnostic devices: (ii) liquid crystal displays in instruments for analysis, measurements, control, monitoring,		(g) end of the service life of the articles: (h) (no expiry date)

Substance	Use or storage	Manufacture	Expiry of permitted use or storage
	testing, production, and inspection:		
	(h) articles where UV-328 has been used as an additive in paints, coatings, sealants, adhesives, plastics and rubbers, printing inks, cooling and hydraulic liquids, lubricants, and construction materials (in applications such as land-based motor vehicles, industrial machinery, electrical equipment, electronic equipment, medical and analytical equipment, air conditioning, and heat pumps) present in New Zealand on or before 26 February 2025		

Schedule 2A Alpha hexachlorocyclohexane: inserted, on 18 August 2011, by clause 4 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 2A Beta hexachlorocyclohexane: inserted, on 18 August 2011, by clause 4 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 2A Chlordecone: inserted, on 18 August 2011, by clause 4 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 2A Decabromodiphenyl ether (BDE-209): inserted, on 18 December 2018, by clause 5(1) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2018 (LI 2018/256).

Schedule 2A Dechlorane Plus: inserted, on 14 March 2025, by clause 5 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2025 (SL 2025/44).

Schedule 2A Dicofol: inserted, on 3 December 2020, by clause 5 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2020 (SL 2020/286).

Schedule 2A Hexabromobiphenyl: inserted, on 18 August 2011, by clause 4 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 2A Hexabromocyclododecane: inserted, on 15 December 2016, by clause 5 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2016 (LI 2016/299).

Schedule 2A Hexabromodiphenyl ether and heptabromodiphenyl ether: inserted, on 18 August 2011, by clause 4 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 2A Hexachlorobutadiene: inserted, on 15 December 2016, by clause 5 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2016 (LI 2016/299).

Schedule 2A Lindane: inserted, on 18 August 2011, by clause 4 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 2A Methoxychlor: inserted, on 14 March 2025, by clause 5 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2025 (SL 2025/44).

Schedule 2A Pentachlorobenzene: inserted, on 18 August 2011, by clause 4 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 2A Pentachlorophenol: inserted, on 15 December 2016, by clause 5 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2016 (LI 2016/299).

Schedule 2A Perfluorohexane sulfonic acid (PFHxS): inserted, on 5 October 2023, by clause 5 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2023 (SL 2023/233).

Schedule 2A Perfluorooctane sulfonic acid and perfluorooctane sulfonyl fluoride: inserted, on 18 August 2011, by clause 4 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 2A Perfluorooctane sulfonic acid (formerly Perfluorooctane sulfonic acid and perfluorooctane sulfonyl fluoride): amended, on 18 December 2018, by clause 5(2) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2018 (LI 2018/256).

Schedule 2A Perfluorooctanoic acid (PFOA): inserted, on 3 December 2020, by clause 5 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2020 (SL 2020/286).

Schedule 2A Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/PCDF): inserted, on 5 September 2015, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Schedule 2A Polychlorinated naphthalenes: inserted, on 15 December 2016, by clause 5 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2016 (LI 2016/299).

Schedule 2A Short-chain chlorinated paraffins: inserted, on 18 December 2018, by clause 5(1) of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2018 (LI 2018/256).

Schedule 2A Technical endosulfan: inserted, on 18 August 2011, by clause 4 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 2A Tetrabromodiphenyl ether and pentabromodiphenyl ether: inserted, on 18 August 2011, by clause 4 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255).

Schedule 2A UV-328: inserted, on 14 March 2025, by clause 5 of the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2025 (SL 2025/44).

Schedule 3

ss 32(2), 42(2), 45(2)

Part 1

Matters to be addressed by containment controls for importing, developing, or field testing of genetically modified organisms

Schedule 3 Part 1 heading: amended, on 2 July 2001, by section 41 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

1 To limit the likelihood of any accidental release of any organism or any viable genetic material, the controls imposed by an approval shall specify—

(a) requirements for treatment and decontamination to prevent escape by way of expelled air, discharge of water or liquid waste, removal of solid waste or goods, or breaches in facility boundary:

(b) equipment and requirements for facility construction to enable the requirements for treatment and decontamination to be readily met:

(c) requirements to be complied with for the access of persons to the facility:

(d) procedures and requirements for transport, identification, and packaging for all biological material to and from the facility and within the facility:

(e) requirements for the disposal of any biological material:

(f) requirements for facility construction:

(g) requirements to secure the facility and openings, including securing against failure in the event of foreseeable hazards.

2 To exclude unauthorised people from the facility, the controls imposed by an approval shall specify—

(a) means of identification of all entrances to the facility:

(b) the numbers of entrances and access to the facility:

(c) security requirements for the entrances and the facility.

3 To exclude other organisms from the facility and to control undesirable and unwanted organisms within the facility, the controls shall specify—

(a) monitoring requirements to establish the presence of other organisms:

(b) phytosanitary requirements:

(c) requirements to secure the facility and openings against likely unwanted organisms.

4 To prevent unintended release of the organism by experimenters working with the organism, the controls shall specify—

(a) requirements to prevent the contamination of work surfaces, equipment, clothing, and the facility generally:

(b) requirements for laboratory practice to control infection by ingestion or breaks in skin cover:

(c) means to control infection by inhalation.

5 To control the effects of any accidental release or escape of an organism—

(a) controls imposed by an approval shall specify an eradication plan for escaped organisms:

(b) controls imposed by an approval may specify requirements to limit the likelihood of an escaped organism spreading, surviving and breeding, including, but not limited to,—

(i) exclusion zones (spatial or temporal):

(ii) location of the facility outside the usual habitat range of the organism.

6 Controls imposed by an approval shall specify inspection and monitoring requirements for containment facilities, including any inspection required before commencement of the development.

Schedule 3 Part 1 clause 6: amended, on 28 May 2002, by section 11(1) of the Hazardous Substances and New Organisms (Genetically Modified Organisms) Amendment Act 2002 (2002 No 13).

6A Controls imposed on an approval to field test a genetically modified organism—

(a) must specify—

(i) inspection and monitoring of containment facilities during the field test; and

(ii) inspection and monitoring of the site, after the field test, to ensure that all heritable material is removed or destroyed; and

(b) may specify inspection of the site before field testing commences.

Schedule 3 Part 1 clause 6A: inserted, on 28 May 2002, by section 11(2) of the Hazardous Substances and New Organisms (Genetically Modified Organisms) Amendment Act 2002 (2002 No 13).

6B Clause 6A applies, with all necessary modifications, to controls imposed on an approval to develop a new organism that is a genetically modified organism, to the extent that the development does not take place in a containment structure.

Schedule 3 Part 1 clause 6B: inserted, on 28 May 2002, by section 11(2) of the Hazardous Substances and New Organisms (Genetically Modified Organisms) Amendment Act 2002 (2002 No 13).

7 Controls imposed by an approval may specify—

(a) the qualifications required of the person responsible for implementing the controls imposed by an approval:

(b) the provision of a management plan specifying procedures for implementing controls imposed by an approval.

Part 2
Matters to be addressed by containment controls for new organisms excluding genetically modified organisms

1 To limit the likelihood of any accidental release of any organism or any viable genetic material, the controls imposed by an approval shall specify—

(a) requirements for treatment and decontamination to prevent escape by way of expelled air, discharge of water or liquid waste, removal of solid waste, or breaches in facility boundary:

(b) equipment and requirements for facility construction to enable the requirements for treatment and decontamination to be readily met:

(c) requirements to be complied with for the access of persons to the facility:

(d) procedures and requirements for transport, identification, and packaging for all biological material to and from the facility and within the facility:

(e) requirements for the disposal of any biological material:

(f) requirements for facility construction:

(g) requirements to secure the facility and openings, including securing against failure in the event of foreseeable hazards.

2 To exclude unauthorised people from the facility, the controls imposed by an approval shall specify—

(a) means of identification of all entrances to the facility:

(b) the numbers of entrances and access to the facility:

(c) security requirements for the entrances and the facility.

3 To control the effects of any accidental release or escape of an organism—

(a) controls imposed by an approval shall specify an eradication plan for escaped organisms:

(b) controls imposed by an approval may specify requirements to limit the likelihood of an escaped organism spreading, surviving, and breeding, including, but not limited to,—

(i) exclusion zones (spatial or temporal):

(ii) location of the facility outside the usual habitat range of the organism.

4 Controls imposed by an approval shall specify inspection and monitoring requirements for containment facilities.

5 Controls imposed by an approval may specify the qualifications required of the person responsible for implementing those controls.

Part 3
Matters to be addressed by EPA containment controls for contained hazardous substances

Schedule 3 Part 3 heading: amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

1 To limit the likelihood of escape of any contained hazardous substances or contamination of the facility by hazardous substances, the EPA controls imposed by an approval shall specify—

(a) requirements for treatment and decontamination to prevent escape by way of expelled air, discharge of water or liquid waste, removal of solid waste, or breaches in facility boundary:

(b) equipment and requirements for facility construction to enable the requirements for treatment and decontamination to be readily met:

(c) requirements to be complied with for the access of persons to the facility:

(d) procedures and requirements for transport, identification, and packaging of the substance to and from the facility and within the facility:

(e) requirements for the disposal of any hazardous substance:

(f) requirements for facility construction:

(g) requirements to secure the facility and openings, including securing against failure in the event of foreseeable hazards.

Schedule 3 Part 3 clause 1: amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

2 To exclude organisms from a facility or to control organisms within a facility, the EPA controls shall specify—

(a) phytosanitary requirements:

(b) requirements to secure the facility and openings against likely unwanted organisms:

(c) monitoring requirements to establish the presence of organisms.

Schedule 3 Part 3 clause 2: amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

3 To exclude unauthorised people from the facility, EPA controls imposed by an approval shall specify—

(a) means of identification of all entrances to the facility:

(b) the numbers of entrances and access to the facility:

(c) security requirements for the entrance and the facility.

Schedule 3 Part 3 clause 3: amended, on 1 December 2017, by section 54 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

4 To prevent unintended release of the substance by experimenters working with the substance, the controls shall specify—

(a) requirements to prevent the contamination of work surfaces, equipment, clothing, and the facility generally:

(b) procedures to ensure that no person in the facility is exposed to a sufficient level of the substance to cause harm to that person.

5 To control the effects of any accidental release of the substance, controls imposed by an approval shall specify—

(a) procedures to recover and dispose of any hazardous substance:

(b) procedures to minimise the effects of such a release on people and the environment.

6 Controls imposed by an approval shall specify inspection and monitoring requirements for containment facilities.

7 Controls imposed by an approval may specify—

(a) the qualifications required of the person responsible for implementing the controls imposed by an approval:

(b) the provisions of a management plan specifying procedures for implementing controls imposed by an approval.

Schedule 4
Enactments amended

s 149

Animal Remedies Act 1967 (1967 No 51) (RS Vol 21, p 11)
Amendment(s) incorporated in the Act(s).

Arms Act 1983 (1983 No 44)
Amendment(s) incorporated in the Act(s).

Biosecurity Act 1993 (1993 No 95)
Amendment(s) incorporated in the Act(s).

Building Act 1991 (1991 No 150)
Amendment(s) incorporated in the Act(s).

Civil Aviation Act 1990 (1990 No 98)
Amendment(s) incorporated in the Act(s).

Conservation Act 1987 (1987 No 65)
Amendment(s) incorporated in the Act(s).

Defence Act 1990 (1990 No 28)
Amendment(s) incorporated in the Act(s).

Environment Act 1986 (1986 No 127)
Amendment(s) incorporated in the Act(s).

Fertilisers Act 1960 (1960 No 33)
Amendment(s) incorporated in the Act(s).

Fertilisers Act 1982 (1982 No 134)
Amendment(s) incorporated in the Act(s).

Fire Service Act 1975 (1975 No 42) (RS Vol 27, p 11)
Amendment(s) incorporated in the Act(s).

Fire Service Amendment Act 1990 (1990 No 136)
Amendment(s) incorporated in the Act(s).

Fisheries Act 1983 (1983 No 14) (RS Vol 27, p 137)
Amendment(s) incorporated in the Act(s).

Food Act 1981 (1981 No 45)
Amendment(s) incorporated in the Act(s).

Gas Act 1992 (1992 No 124)
Amendment(s) incorporated in the Act(s).

Health Act 1956 (1956 No 65) (RS Vol 31, p 467)
Amendment(s) incorporated in the Act(s).

Health and Safety in Employment Act 1992 (1992 No 96)
Amendment(s) incorporated in the Act(s).

Land Transport Act 1993 (1993 No 88)
Amendment(s) incorporated in the Act(s).

Medicines Act 1981 (1981 No 118)
Amendment(s) incorporated in the Act(s).

Misuse of Drugs Act 1975 (1975 No 116) (RS Vol 26, p 567)
Amendment(s) incorporated in the Act(s).

Official Information Act 1982 (1982 No 156) (RS Vol 21, p 579)
Amendment(s) incorporated in the Act(s).

Ombudsmen Act 1975 (1975 No 9) (RS Vol 21, p 657)
Amendment(s) incorporated in the Act(s).

Ozone Layer Protection Act 1990 (1990 No 50)
Amendment(s) incorporated in the Act(s).

Radiation Protection Act 1965 (1965 No 23) (RS Vol 18, p 673)
Amendment(s) incorporated in the Act(s).

Resource Management Act 1991 (1991 No 69) (RS Vol 32, p 131)
Amendment(s) incorporated in the Act(s).

Shipping and Seamen Act 1952 (1952 No 49) (RS Vol 4, p 275)
Amendment(s) incorporated in the Act(s).

Transport Act 1962 (1962 No 135) (RS Vol 16, p 659)
Amendment(s) incorporated in the Act(s).

Transport Amendment Act 1987 (1987 No 96)
Amendment(s) incorporated in the Act(s).

Schedule 5
Enactments repealed

s 150(1)

Age of Majority Act 1970 (1970 No 137) (RS Vol 21, p 1)
Amendment(s) incorporated in the Act(s).

Animals Act 1967 (1967 No 50) (RS Vol 21, p 73)
Amendment(s) incorporated in the Act(s).

Building Act 1991 (1991 No 150)
Amendment(s) incorporated in the Act(s).

Crown Research Institutes Act 1992 (1992 No 47)
Amendment(s) incorporated in the Act(s).

Dangerous Goods Act 1974 (1974 No 26) (RS Vol 24, p 241)

Dangerous Goods Amendment Act 1978 (1978 No 16) (RS Vol 24, p 275)

Dangerous Goods Amendment Act 1979 (1979 No 83) (RS Vol 24, p 276)

Dangerous Goods Amendment Act 1983 (1983 No 67) (RS Vol 24, p 277)

Dangerous Goods Amendment Act 1989 (1989 No 84)

Environment Act 1986 (1986 No 127)
Amendment(s) incorporated in the Act(s).

Explosives Act 1957 (1957 No 19) (RS Vol 6, p 361)

Explosives Amendment Act 1958 (1958 No 66) (RS Vol 6, p 398)

Explosives Amendment Act 1962 (1962 No 65) (RS Vol 6, p 399)

Explosives Amendment Act 1973 (1973 No 45) (RS Vol 6, p 399)

Explosives Amendment Act 1975 (1975 No 75) (RS Vol 6, p 399)

Explosives Amendment Act 1978 (1978 No 17) (RS Vol 6, p 400)

Explosives Amendment Act 1983 (1983 No 71)

Explosives Amendment Act 1989 (1989 No 85)

Explosives Amendment Act 2000 (2000 No 63)

Explosives (Fireworks Safety) Amendment Act 1985 (1985 No 2)

Explosives (Skyrockets Restriction) Amendment Act 1994 (1994 No 144)

Fertilisers Act 1982 (1982 No 134)

Amendment(s) incorporated in the Act(s).

Health Amendment Act 1987 (1987 No 10) (RS Vol 31, p 580)

Amendment(s) incorporated in the Act(s).

Health and Safety in Employment Act 1992 (1992 No 96)

Amendment(s) incorporated in the Act(s).

Health Reforms (Transitional Provisions) Act 1993 (1993 No 23)

Amendment(s) incorporated in the Act(s).

Judicature Amendment Act 1991 (1991 No 60)

Amendment(s) incorporated in the Act(s).

Ministry of Agriculture and Fisheries Amendment Act 1990 (1990 No 53)

Amendment(s) incorporated in the Act(s).

Official Information Amendment Act 1987 (1987 No 8) (RS Vol 21, p 652)

Amendment(s) incorporated in the Act(s).

Pesticides Act 1979 (1979 No 26)

Pesticides Amendment Act 1987 (1987 No 16)

Pesticides Amendment Act (No 2) 1987 (1987 No 44)

Plants Act 1970 (1970 No 151) (RS Vol 21, p 735)

Amendment(s) incorporated in the Act(s).

Smoke-free Environments Act 1990 (1990 No 108)

Amendment(s) incorporated in the Act(s).

Toxic Substances Act 1979 (1979 No 27)

Toxic Substances Amendment Act 1983 (1983 No 98)

Toxic Substances Amendment Act 1986 (1986 No 111)

Toxic Substances Amendment Act 1988 (1988 No 215)

Schedule 5 **Explosives Amendment Act 2000**: inserted, on 15 November 2000, by section 4 of the Explosives Amendment Act 2000 (2000 No 63).

Schedule 6
Regulations and orders revoked

s 150(2)

Biosecurity (Transition) Regulations 1995 (SR 1995/106)

Amendment(s) incorporated in the regulations.

Dangerous Goods Amendment Act Commencement Order 1979 (SR 1979/47)

Dangerous Goods (Class 2—Gases) Regulations 1980 (SR 1980/46)

Amendment(s) incorporated in the regulations.

Dangerous Goods (Class 3—Flammable Liquids) Regulations 1985 (SR 1985/188)

Amendment(s) incorporated in the regulations.

Dangerous Goods (Class 4—Flammable Solids or Substances and Class 5—Oxidising Substances) Regulations 1985 (SR 1985/170)

Amendment(s) incorporated in the regulations.

Dangerous Goods (Labelling) Regulations 1978 (SR 1978/305)

Amendment(s) incorporated in the regulations.

Dangerous Goods (Licensing Fees) Regulations 1976 (SR 1976/189)

Amendment(s) incorporated in the regulations.

Dangerous Goods Order 1983 (SR 1983/127)

Dangerous Goods Order 1987 (SR 1987/74)

Dangerous Goods Regulations 1958 (SR 1958/76)

Dangerous Goods Regulations 1958, Amendment No 1 (SR 1961/149)

Dangerous Goods Regulations 1958, Amendment No 3 (SR 1967/109)

Dangerous Goods Regulations 1958, Amendment No 4 (SR 1969/47)

Dangerous Goods Regulations 1958, Amendment No 5 (SR 1970/255)

Dangerous Goods Regulations 1958, Amendment No 6 (SR 1974/80)

Hamster Importation and Control Regulations 1972 (SR 1972/214)

Schedule 7
Transitional, savings, and related provisions

s 3A

Schedule 7: replaced, on 5 September 2015, by section 53 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Schedule 7 heading: replaced, on 1 November 2022, by section 31(1) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Part 1
Provisions relating to Hazardous Substances and New Organisms Amendment Act 2015

Schedule 7 Part 1 heading: inserted, on 1 November 2022, by section 31(2) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

1 Interpretation

In this schedule, unless the context otherwise requires,—

deemed approval means an approval for a hazardous substance or group of hazardous substances deemed to have been given under section 29 by—

(a) the Hazardous Substances (Fireworks, Safety Ammunition, and Other Explosives Transfer) Regulations 2003; or

(b) a notice issued under section 160A that is in force immediately before the commencement of this schedule

existing classification system—

(a) means the hazard classification system that is provided for in the Hazardous Substances (Classification) Regulations 2001 and the Hazardous Substances (Minimum Degrees of Hazard) Regulations 2001, as in force immediately before the establishment of the new classification system; and

(b) if a hazardous substance has been given a hazard classification by the Authority for the purposes of an approval or is deemed to have a hazard classification under a deemed approval, includes the classification of that hazardous substance that it has been given or is deemed to have

existing prescribed controls—

(a) means controls prescribed by regulations made under this Act that apply to an individual approval or a deemed approval (as varied in the approval in accordance with section 77, 77A, or 77B) and that are in force immediately before the commencement of this schedule; and

(b) includes any conditions imposed on a hazardous substance by a group standard in force immediately before the commencement of this schedule

further transitional measures means transitional arrangements related to the existing classification system or existing prescribed controls, as provided for in—

(a) any approval or group standard that has been reissued in accordance with this schedule; or

(b) any EPA notice or regulations made under clause 8 or the Health and Safety at Work Act 2015

new classification system means the hazard classification system provided for in an EPA notice issued under section 74 on or after the commencement of this schedule

new controls means the controls prescribed in an EPA notice issued under this Act on or after the commencement of this schedule.

Schedule 7 clause 1: inserted, on 1 December 2017, by section 53 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

2 Existing classification system applies for the purpose of applying existing prescribed controls

Despite any hazard classification under the new classification system, a hazardous substance may be classified under the existing classification system for the purpose of applying existing prescribed controls in accordance with—

(a) this schedule; or

(b) further transitional measures.

Schedule 7 clause 2: inserted, on 1 December 2017, by section 53 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

3 Limitation on effect of existing prescribed controls

An existing prescribed control has no legal effect to the extent that it is replaced by any regulations or safe work instruments made under the Health and Safety at Work Act 2015.

Schedule 7 clause 3: inserted, on 1 December 2017, by section 53 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

4 Existing prescribed controls applying to approvals (including deemed approvals)

(1) This clause applies to—

(a) approvals for a hazardous substance or group of hazardous substances given under Part 5 that are in force immediately before the commencement of this schedule; and

(b) deemed approvals.

(2) All existing prescribed controls continue to apply to the approval according to their terms, but subject to clause 3, until the Authority has—

(a) reissued the approval under subclause (3); or

(b) revoked the approval under section 67B.

(3) Despite sections 62 and 63, the Authority may review and, by public notice, amend and reissue the approval for the purpose of updating the approval to—

(a) take into account the new classification system, the revocation of existing prescribed controls or the replacement of existing prescribed controls with new controls; or

(b) omit any control if it is reasonable to conclude that the purpose of the control is to address the adverse effects on people in the workplace and that any other aspect of the control is only incidental to that purpose.

(4) The amendment and reissue of the approval under this clause is not a reassessment of a hazardous substance to which section 63 applies or a modified reassessment of a hazardous substance to which section 63A or 63C applies.

(5) If an approval is reissued in accordance with this clause, it must be treated, without further need for a decision under the relevant provision referred to in paragraph (a) or (b), as if it has been reissued—

(a) under the provision under which the approval was granted; or

(b) in the case of an approval described in subclause (1)(b), under section 29.

(6) If the Authority reviews an approval under subclause (3) and considers it appropriate to identify a group of substances with approvals or deemed approvals that should be replaced with a group standard, the Authority may revoke the approvals or deemed approvals under section 67B and issue a new group standard.

(7) If the Authority issues a group standard in accordance with this clause—

(a) sections 53 and 96C do not apply to the amendment or reissue of the group standard under this clause; and

(b) the group standard must be treated as if it has been issued under section 96B in accordance with the requirements of this Act.

Schedule 7 clause 4: inserted, on 1 December 2017, by section 53 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Schedule 7 clause 4(6): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

5 Existing group standards

(1) This clause applies to group standards issued under section 96B that are in force immediately before the commencement of this schedule.

(2) The existing prescribed controls in a group standard continue to apply to the hazardous substances concerned according to the terms of the group standard, but subject to clause 3, until the Authority has—

(a) reissued the group standard under subclause (3); or

(b) revoked the group standard under section 67B.

(3) The Authority may review and amend and reissue a group standard for the purpose of updating the group standard to—

(a) take into account the new classification system, the revocation of existing prescribed controls, or the replacement of existing prescribed controls with new controls; or

(b) omit any condition imposed by the Authority under section 96B if it is reasonable to conclude that the purpose of the condition is to address the adverse effects on people in the workplace and that any other aspect of the condition is only incidental to that purpose.

(4) The Authority may, if it considers appropriate, reissue a group standard under this clause that excludes hazardous substances or products that it formerly covered if those hazardous substances or products are moved to a different group standard that is also reissued under this clause or issued under clause 4(6).

(5) If the Authority reissues a group standard in accordance with this clause,—

(a) sections 53 and 96C do not apply to the amendment of a group standard under this clause; and

(b) the group standard must be treated as if it has been issued under section 96B in accordance with the requirements of this Act.

Schedule 7 clause 5: inserted, on 1 December 2017, by section 53 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

Schedule 7 clause 5(3): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

6 Existing regulations and codes of practice

(1) This clause applies to—

(a) regulations in force under this Act immediately before the commencement of this schedule that include any requirements that apply in relation to hazardous substances in workplaces; and

(b) codes of practice issued or approved by the Authority for the purpose of implementing any requirement included in those regulations that are in force immediately before the commencement of this schedule.

(2) The regulations, codes of practice, and approvals of codes of practice to which this clause applies—

(a) continue in force until revoked or replaced; and

(b) even if revoked, continue in force for the purpose of applying any existing prescribed controls in accordance with—

(i) this schedule; or

(ii) further transitional measures.

(3) The Authority may revoke any code or approval of a code to which this clause applies without complying with section 79(2) if satisfied that, as applicable, a corresponding code or guidance has been or is to be issued by—

(a) WorkSafe under the Health and Safety at Work Act 2015; or

(b) the Authority, under this Act.

Schedule 7 clause 6: inserted, on 1 December 2017, by section 53 of the Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72).

7 Pre-commencement action relating to EPA notices

Subsections (1) and (2) of section 76C are satisfied in relation to any EPA notice if action of the kind described in those subsections was taken before their commencement for the purpose of facilitating the making of the notice.

8 Transitional matters may be provided for in regulations

[Repealed]

Schedule 7 clause 8: repealed, on 1 December 2020, by Schedule 7 clause 9.

9 Expiry of clause 8

[Repealed]

Schedule 7 clause 9: repealed, on 1 November 2022, by section 31(4) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Part 2
Provisions relating to Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022

Schedule 7 Part 2: inserted, on 1 November 2022, by section 31(3)(a) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

10 Interpretation

In this Part, **commencement date** means the day on which this Part comes into force.

Schedule 7 clause 10: inserted, on 1 November 2022, by section 31(3)(a) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

11 Application of requirements in section 53AA

Section 53AA(2) to (6) applies only in respect of applications for reassessment lodged on or after the commencement date.

Schedule 7 clause 11: inserted, on 1 November 2022, by section 31(3)(a) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

12 Pre-enactment action relating to notice made under section 76E

Subsections (2) and (3) of section 76E are satisfied in relation to a notice if the Authority took action of the kind described in those subsections before

their commencement (including before their enactment) for the purpose of facilitating the issue of the notice.

Schedule 7 clause 12: inserted, on 1 November 2022, by section 31(3)(a) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

13 Penalty in respect of section 109(1)(da)

A person is not liable to the penalty under section 114(1) in respect of an offence committed against section 109(1)(da) before the commencement date.

Schedule 7 clause 13: inserted, on 1 November 2022, by section 31(3)(a) of the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57).

Hazardous Substances and New Organisms (Genetically Modified Organisms) Amendment Act 2002

Public Act	2002 No 13
Date of assent	27 May 2002
Commencement	see section 2

1 Title

(1) This Act is the Hazardous Substances and New Organisms (Genetically Modified Organisms) Amendment Act 2002.

(2) In this Act, the Hazardous Substances and New Organisms Act 1996 is called "the principal Act".

Part 1
Preliminary provisions

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 2
Amendments to principal Act

7 New section 44A inserted

(1) *Amendment(s) incorporated in the Act(s).*

(2) This section does not apply in relation to applications for approvals to develop new organisms in containment made before 1 April 2002.

8 New section 45A inserted

(1) *Amendment(s) incorporated in the Act(s).*

(2) This section does not apply in relation to applications for approvals to develop new organisms in containment made before 1 April 2002.

10 Transitional provision

(1) This section applies to an approval issued by the Authority if—

(a) the approval was issued in the period beginning on 29 October 2001 and ending on the close of the day before the date on which this Act receives the Royal assent; and

(b) had this Act been in force when the approval was issued, sections 44A and 45A of the principal Act would have applied to the approval.

(2) The Authority must review the approval within 5 working days after the commencement of this Act.

(3) The Authority must cancel the approval if, after reviewing the approval, it decides that, had section 44A of the principal Act been in force when it considered whether to approve or decline the application, it would have declined the application.

(4) If the Authority cancels an approval under subsection (3), the owner of the organism must, within the time specified by the Authority,—

(a) stop the field test of the organism; and

(b) dispose of the organism in accordance with the controls as to disposal in the approval.

(5) The Authority must include additional controls, or substitute controls, or both, if, after reviewing the approval, it decides that,—

(a) had section 45A of the principal Act been in force when it approved the application, it would have included in the approval controls relating to the matters referred to in that section:

(b) had section 44A of the principal Act been in force when it approved the application, it would have included in the approval different controls.

(6) Controls added or substituted under subsection (5) apply immediately.

(7) No compensation is payable by the Crown to any person for any loss or damage arising from the enactment or operation of this section.

Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005

Public Act	2005 No 123
Date of assent	21 December 2005
Commencement	see section 2

1 Title

(1) This Act is the Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005.

(2) In this Act, the Hazardous Substances and New Organisms Act 1996 is called "the principal Act".

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 2
New Part 6A inserted in principal Act

26 Pre-commencement consultation on group standards

Consultation on group standards completed in accordance with sections 53 to 61 of the Hazardous Substances and New Organisms Act 1996 is to be treated as complying with those sections even though some or all of the consultation occurred before the commencement of this Act.

Hazardous Substances and New Organisms Amendment Act 2010

Public Act	2010 No 18
Date of assent	19 April 2010
Commencement	see section 2

1 Title

This Act is the Hazardous Substances and New Organisms Amendment Act 2010.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act amended

This Act amends the Hazardous Substances and New Organisms Act 1996.

34 Transitional provision for applications

(1) This section applies to an application under section 28, 34, 38A, or 40 of the principal Act received by the Authority before the commencement of this Act.

(2) The application must be dealt with as if this Act had not been enacted.

35 Transitional provision for reassessment of hazardous substance

(1) This section applies if, before the commencement of this Act,—

(a) the Authority decided to reassess a hazardous substance under section 63A of the principal Act; and

(b) the Authority proposed to issue, amend, or revoke, under section 96B of the principal Act, a group standard that applied to the hazardous substance, on similar grounds to the grounds for deciding to reassess the substance.

(2) The decision and proposal must be dealt with as if this Act had not been enacted.

36 Transitional provision for aerodromes

Anything done, before the commencement of this Act, in enforcing the principal Act in relation to an aerodrome may be completed as if this Act had not been enacted.

37 Transitional provision for cost recovery

(1) This section applies to any costs of enforcing the principal Act in respect of a new organism incurred by the enforcement agency (as defined by section 97A of the principal Act).

(2) The costs—

(a) must be dealt with as if this Act had not been enacted, if they were incurred before the commencement of this Act; or

(b) may be recovered in accordance with the principal Act as amended by this Act, if they were incurred on or after the commencement of this Act, regardless of when the enforcement to which the costs relate occurred.

38 Transitional provision for filing charging document

(1) Subsection (2) applies to a charge in respect of an offence against the principal Act that relates to a hazardous substance.

(2) The charging document must be filed—

(a) as if this Act had not been enacted, if the incident, situation, or set of circumstances to which the offence relates occurred before the commencement of this Act; or

(b) in accordance with the principal Act as amended by this Act in all other cases.

(3) Subsection (4) applies to a charge in respect of an offence against the principal Act that relates to a new organism.

(4) The charging document must be filed—

(a) as if this Act had not been enacted, if the offence was committed before the commencement of this Act; or

(b) in accordance with the principal Act as amended by this Act in all other cases.

Section 38 heading: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 38(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 38(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 38(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 38(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 38(4)(a): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Notes

1 General

This is a consolidation of the Hazardous Substances and New Organisms Act 1996 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Emergency Management Act 2026 (2026 No 53): section 235

Healthy Futures (Pae Ora) Amendment Act 2026 (2026 No 40): section 41(1)

Environment (Disestablishment of Ministry for the Environment) Amendment Act 2026 (2026 No 22): section 18

Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2025 (SL 2025/44)

Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68): section 6

Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2023 (SL 2023/233)

Civil Aviation Act 2023 (2023 No 10): section 486

Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2022 (2022 No 57)

Pae Ora (Healthy Futures) Act 2022 (2022 No 30): section 104

Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14): wehenga 7/section 7

Secondary Legislation Act 2021 (2021 No 7): section 3

Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2020 (LI 2020/286)

Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48): section 175(1)

Public Service Act 2020 (2020 No 40): section 135

Privacy Act 2020 (2020 No 31): section 217

Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2018 (LI 2018/256)

Customs and Excise Act 2018 (2018 No 4): section 443(3)

Fire and Emergency New Zealand Act 2017 (2017 No 17): section 197

Resource Legislation Amendment Act 2017 (2017 No 15): section 123

Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2016 (LI 2016/299)

Comprehensive and Progressive Agreement for Trans-Pacific Partnership Amendment Act 2018 (2016 No 90): Part 4 (as amended by Trans-Pacific Partnership Agreement (CPTPP) Amendment Act 2018 (2018 No 41))

Agricultural Compounds and Veterinary Medicines Amendment Act 2016 (2016 No 82): section 11

Senior Courts Act 2016 (2016 No 48): section 183(c)

Hazardous Substances and New Organisms Amendment Act 2015 (2015 No 72)

Biosecurity (Border Processing—Trade Single Window) Amendment Act 2014 (2014 No 11): sections 16, 18(4)

WorkSafe New Zealand Act 2013 (2013 No 94): section 22

Public Finance Amendment Act 2013 (2013 No 50): section 57

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Biosecurity Law Reform Act 2012 (2012 No 73): section 93

Search and Surveillance Act 2012 (2012 No 24): section 255

Criminal Procedure Act 2011 (2011 No 81): section 413

Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011 (SR 2011/255)

Hazardous Substances and New Organisms Amendment Act 2011 (2011 No 16)

Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18)

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Land Transport Management Amendment Act 2008 (2008 No 47): section 50(1)

Hazardous Substances and New Organisms Amendment Act 2008 (2008 No 22)

Hazardous Substances and New Organisms Amendment Act 2007 (2007 No 61)

Hazardous Substances and New Organisms (Approvals and Enforcement) Amendment Act 2005 (2005 No 123)

Railways Act 2005 (2005 No 37): section 103(3)

Crown Entities Act 2004 (2004 No 115): section 200

Public Finance Amendment Act 2004 (2004 No 113): section 37(1)

Building Act 2004 (2004 No 72): sections 414, 415(1)

Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7)

Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54)

State Sector Amendment Act 2003 (2003 No 41): section 12(2)

Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37)

Local Government Act 2002 (2002 No 84): section 262

Civil Defence Emergency Management Act 2002 (2002 No 33): section 117

Hazardous Substances and New Organisms (Genetically Modified Organisms) Amendment Act 2002 (2002 No 13)

Hazardous Substances and New Organisms Act Commencement Order (No 2) 2001 (SR 2001/171)

New Zealand Public Health and Disability Act 2000 (2000 No 91): section 111(1)

Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89)

Explosives Amendment Act 2000 (2000 No 63): section 4

Hazardous Substances and New Organisms Act (Commencement of Section 152) Order 1999 (SR 1999/403)

Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35)

Land Transport Act 1998 (1998 No 110): section 215(1)

Hazardous Substances and New Organisms Act (New Organisms) Commencement Order 1998 (SR 1998/220)

District Courts Amendment Act 1998 (1998 No 76): section 7

Hazardous Substances and New Organisms Act Commencement Order 1996 (SR 1996/217)

Hazardous Substances and New Organisms Act 1996 (1996 No 30): sections 142A(6), 152(1), Schedule 7 clause 9

Customs and Excise Act 1996 (1996 No 27): section 294(2)

Public Finance Act 1989 (1989 No 44): section 65R(3)

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