

Hazardous Substances and New Organisms Amendment Bill

(Divided from the Health and Safety Reform Bill)

Government Bill

As reported from the committee of the whole House

This Bill was formerly part of the Health and Safety Reform Bill as reported from the Transport and Industrial Relations Committee. The committee of the whole House has further amended the Bill and divided it into the following Bills:

- Health and Safety at Work Bill comprising clauses 1 and 2, Parts 1 to 5, and Schedules 1 to 3
- Accident Compensation Amendment Bill comprising subpart 1 of Part 6 and Schedule 4
- this Bill comprising subpart 2 of Part 6 and Schedules 5 to 7
- Employment Relations Amendment Bill (No 2) comprising subpart 3 of Part 6
- WorkSafe New Zealand Amendment Bill comprising subpart 4 of Part 6 and Schedule 8.

**Hazardous Substances and New Organisms Amendment
Bill**

Key to symbols used in reprinted bill

As reported from the committee of the whole House

text inserted

~~text deleted~~

Hon Michael Woodhouse

Hazardous Substances and New Organisms Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Hazardous Substances and New Organisms Amendment Act **2015**.

2 Commencement

- (1) **Sections 253(5), (6), (8), and (9), 258, 258A(4), 262, 263, 265, 283, 283A, 286(1AB), 290, and 291** come into force on the day after the date on which this Act receives the Royal assent. 5
- (2) The following provisions also come into force on the day after the date on which this Act receives the Royal assent:
- (a) **section 253(1)**, but only as it relates to the definition of EPA notice: 10
- (b) **section 273**, but only as it relates to **sections 76A(d), (f), (g), and (h), 76AA, 76B, and 76C** of the Hazardous Substances and New Organisms Act 1996:
- (c) **sections 255 and 292**, but only as they relate to **clause 7 of Schedule 7** of the Hazardous Substances and New Organisms Act 1996 (which clause is set out in **Schedule 5**): 15
- (d) **section 293**, but only as it relates to the items about sections 63B and 141 to 141I of the Hazardous Substances and New Organisms Act 1996 (which items are set out in **Schedule 6**).
- (3) The rest of this Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made bringing different provisions into force on different dates and appointing different dates for different purposes. 20
- (4) Any provision that has not earlier been brought into force comes into force on **1 January 2018**. 25

252 Principal Act

This **Act** amends the Hazardous Substances and New Organisms Act 1996 (the **principal Act**).

253 Section 2 amended (Interpretation) 30

- (1) In section 2(1), insert in their appropriate alphabetical order:
- 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
- content control** means a control imposed under this Act that— 35
- (a) specifies the allowable limits for the content of any—
- (i) substance contained in any substance or product; or

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| <ul style="list-style-type: none"> <li style="margin-left: 40px;">(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— <ul style="list-style-type: none"> (i) substance contained in any substance or product; or (ii) element or compound that makes up any substance contained in any substance or product <p>document has the same meaning as in section 4(1) of the Evidence Act 2006</p> <p>ecotoxic control means a control imposed under this Act for the purposes of controlling the ecotoxic effects of a hazardous substance</p> <p>EPA control—</p> <ul style="list-style-type: none"> (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 <p>EPA notice means a notice issued in the <i>Gazette</i> by the Authority under Part 6 or under any other provision of this Act that applies section 76B</p> <p>gases under pressure means—</p> <ul style="list-style-type: none"> (a) a compressed gas; or (b) a liquefied gas; or (c) a refrigerated liquefied gas; or (d) a dissolved gas <p>workplace has the same meaning as in section 15 of the Health and Safety Reform Act 2014.</p> | <p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> |
| <ul style="list-style-type: none"> (1A) In section 2(1), repeal the definition of container. (2) In section 2(1), definition of controls, replace “regulations, rules, codes, or other documents” with “regulations, rules, EPA notices, codes, or other instruments or documents”. (3) In section 2(1), definition of exposure limit, replace “, a tolerable exposure limit, or a workplace exposure standard” with “or a tolerable exposure limit”. (4) In section 2(1), definition of hazardous substance, replace “regulations” with “an EPA notice”. (4) <u>In section 2(1), definition of hazardous substance, after “regulations”, insert “or an EPA notice”.</u> (4A) In section 2(1), repeal the definition of landfill. | <p>30</p> <p>35</p> |

- (5) In section 2(1), definition of **persistent organic pollutant**, paragraph (b), replace “but” with “and”.
- (6) In section 2(1), definition of **persistent organic pollutant**, after paragraph (b), insert:
- (ba) includes a manufactured article containing 1 or more of those substances; but 5
- (7) In section 2(1), repeal the definitions of **place of work** and **port of entry**.
- (8) In section 2(1), definition of **prescribed**, after “regulations made”, insert “or an EPA notice issued”.
- (9) In section 2(1), replace the definition of **public notice** with: 10
- 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 15
- (9A) In section 2(1), repeal the definition of **serious harm**.
- (9B) In section 2(1), repeal the definition of **stationary container**.
- (10) In section 2(1), repeal the definition of **test certificate**.
- (11) In section 2(1), repeal the definition of **tracking system**. 20
- 254 Section 3 amended (Act to bind the Crown)**
- (1) In section 3(3), after “codes of practice for”, insert “EPA controls for”.
- (2) In section 3(4)(a)(i), (5)(a)(i), and (6), replace “controls” with “EPA controls”.
- (3) In section 3(4)(a)(ii) and (5)(a)(ii), replace “regulations made” with “EPA notices issued”. 25
- (4) In section 3(7), after “regulations”, insert “or EPA notices”.
- (5) In section 3(8), after “which involves any”, insert “breach of an EPA control relating to a”.
- 255 New section 3A inserted (Transitional and savings provisions relating to amendments to Act)** 30
- After section 3, insert:
- 3A Transitional and savings provisions relating to amendments to Act**
- The transitional and savings provisions set out in **Schedule 7**, which relate to amendments made to this Act by **subpart 2 of Part 6 of the Health and Safety Reform Act 2014**, have effect for the purposes of this Act. 35

257 Section 11 amended (Powers, functions, and duties of Authority)

- (1) After section 11(1)(b), insert:
- (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:
- (2) After section 11(2), insert:
- (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.

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258 Section 19 amended (Delegation by Authority)

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- (1) After section 19(1)(a), insert:
- (ab) the issuing of an EPA notice; and
- (1A) In section 19(2)(ha), delete “test”.
- (2) After section 19(5A), insert:
- (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 under this section, ~~the delegate may delegate the function or power to the chief executive or 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.

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258A Section 20 amended (Obligation to prepare and maintain register)

- (1) Replace section 20(1) with:
- (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) Replace section 20(2)(f) with:
- (f) all the controls on a hazardous substance imposed under this Act.
- (3) After section 20(3), insert:
- (3A) The register must also include reference to controls on a hazardous substance imposed under the **Health and Safety Reform Act 2014**.
- (3B) The register may also include reference to controls on a hazardous substance imposed under any other Act.
- (4) After section 20(5), insert:
- (6) The Authority may withhold any information relating to transshipment 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.

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260 Section 26 replaced (Determination of new organism or hazardous substance)

Replace section 26 with:

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. 5
- (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: 10
- (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— 15
- (a) any information held by the Authority; and
 - (b) any information held by any department listed in Schedule 1 of the State Sector Act 1988 and any Crown entity; and
 - (c) any information provided by the applicant. 20
- (6) The Authority may revoke or reissue a determination issued by it under this section if it receives further information.

261 Section 33 amended (Exemptions from Act for small-scale research on hazardous substances)

In section 33(1)(a), (2)(a), and (2)(b)(i), replace “prescribed requirements” with “requirements prescribed under **Parts 1 to 5 of the Health and Safety Reform Act 2014**”.

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262 Section 53 amended (Applications required to be publicly notified)

- (1) Repeal section 53(1)(f).
- (2) After section 53(1), insert: 30
- (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 35

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| (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. | |
| (3) | In section 53(4)(c)(ii), after “application”, insert “; and”. | |
| (4) | After section 53(4)(c), insert: | 5 |
| (d) | if the application is an application for approval of a hazardous substance, WorkSafe. | |
| 263 | Section 53A repealed (Method of public notification) | |
| | Repeal section 53A. | |
| 264 | Section 58 amended (Further information) | 10 |
| | Replace section 58(1)(c) with: | |
| (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 | 15 |
| (ii) | if any application is for approval to import or manufacture a hazardous substance, have particular regard to any submissions made by WorkSafe. | 20 |
| 265 | Section 59 amended (Time limits and waivers) | |
| (1) | In section 59(1)(a), replace “section 53” with “section 53(1), (1A)(a) , and (2)”. | |
| (2) | In section 59(3)(a), after “regulation”, insert “or an EPA notice”. | |
| 265A | Section 62 amended (Grounds for reassessment of a substance or organism) | 25 |
| | After section 62(2)(a), insert: | |
| (aa) | a change in any controls under Parts 1 to 5 of the Health and Safety Reform Act 2014 ; or | |
| 266 | Section 63A amended (Modified reassessment procedure for amendments to approvals of hazardous substances) | 30 |
| (1) | In section 63A(2)(a), after “may vary the”, insert “EPA”. | |
| (2) | Replace section 63A(7) with: | |
| (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. | 35 |

267 New section 63C inserted (Modified reassessment to change controls in other cases)

After section 63B, insert:

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— 5
- (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 10
 - (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 **Parts 1 to 5 of the Health and Safety Reform Act 2014**. 15
- (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 20
 - (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 55 to 61 apply with all necessary modifications.
- (4) The Authority may reassess a hazardous substance under this section without publicly notifying the reassessment in accordance with section 53. 25
- (5) If the Authority does not publicly notify the reassessment in accordance with section 53, the Authority must—
- (a) do everything reasonably practicable on its part to consult with all persons who, in its opinion, may be affected by the reassessment; and 30
 - (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.
- (6) The Authority may approve or decline an application for reassessment under this section as it considers appropriate after taking into account— 35
- (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. 5
- (9) This section does not limit the operation of **section 77(2)(a)**.
- 268 Section 65 amended (No compensation following reassessment)**
In section 65, after “section 63,” insert “63A, or **63C** or a group standard is amended or revoked under section 96B(3).” 10
- 269 New section 67B inserted (Revoking duplicated approvals)**
After section 67A, insert:
- 67B Revoking duplicated approvals**
- (1) The Authority may, by notice in the *Gazette*, 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— 15
- (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. 20
- 270 Section 68 amended (Minister’s power to call in applications with significant effects)**
After section 68(1), insert: 25
- (1A) However, a direction under this section applies to an application that relates to any hazardous substances only if the application is one referred to in section 53.
- 271 Section 74 replaced (Establishment of hazard classification system)**
Replace section 74 with: 30
- 74 Establishment of hazard classification system**
The Authority may from time to time, in accordance with **section 76B**, 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 either by reference to an international system or by incorporation of material under section 141A: 35

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| (b) | prescribing, for each intrinsic hazardous substance property, a degree of hazard below which any substance is not considered hazardous, which may be done either by reference to an international system or by incorporation of material under section 141A: | |
| (ba) | prescribing, for gases under pressure, a physical state when packaged: | 5 |
| (c) | prescribing substances as substances that are not hazardous for the purpose of this Act. | |
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| 272 | Section 75 amended (Regulations prescribing hazard classification control) | |
| (1) | Replace the heading to section 75 with “ Authority may prescribe hazardous property controls ”. | 10 |
| (2) | In section 75(1), replace “Subject to section 141, the Governor-General may, from time to time, by Order in Council make regulations prescribing controls” with “The Authority may from time to time, in accordance with section 76B , issue an EPA notice prescribing any EPA controls”. | |
| (3) | Replace section 75(1)(f) and (g) with: | 15 |
| (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. | |
| (4) | Repeal section 75(2). | 20 |
| (5) | In section 75(3), replace “regulations” with “notice”. | |
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| 273 | Section 76 replaced (Requirements for containers, identification, disposal, emergencies, tracking, and fireworks) | |
| | Replace section 76 with: | |
| 76 | Authority may prescribe controls and requirements relating to hazardous substances | 25 |
| (1) | The Authority may, from time to time, in accordance with section 76B , 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: | 30 |
| (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— | 35 |
| (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: 5
 - (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: 10
 - (j) prescribe technical restrictions and prohibitions on the sale of specified fireworks.
- (3) 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. 15
- (4) 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.
- (5) The Authority may, in any EPA notice,—
- (a) prescribe EPA controls for any specified hazardous substance or hazardous substances of a specified class: 20
 - (b) prescribe or provide for EPA controls by reference to controls prescribed under any other Act.
- 76A Authority may prescribe other matters relating to hazardous substances**
- The Authority may, in accordance with **section 76B**, issue an EPA notice that does 1 or more of the following: 25
- (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: 30
 - (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 35
 - (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:

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| (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: | 5 |
| (h) | prescribes who is an importer or a manufacturer, which may be done by reference to any classes or otherwise: | |
| (i) | <u>provides for any matters contemplated by this Act, necessary for its administration or necessary for giving it full effect.</u> | 10 |
| 76AA Authority may prescribe transitional and savings provisions | | |
| 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. | | |
| 76AA Further provisions relating to EPA notices | | |
| (1) | <u>An EPA notice issued under section 74, 75, 76, or 76A may—</u> | 15 |
| (a) | <u>be of general or limited application:</u> | |
| (b) | <u>differ according to differences in time, place, or circumstance, or any other basis:</u> | |
| (c) | <u>impose prohibitions:</u> | 20 |
| (d) | <u>impose obligations and restrictions on persons:</u> | |
| (e) | <u>apply differently to people of a differing age or health status, and may apply only to people of a particular age or health status.</u> | |
| (2) | <u>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.</u> | 25 |
| (3) | <u>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.</u> | |
| 76B Procedure for issuing EPA notices | | |
| (1) | Before issuing an EPA notice, the Authority must— | 30 |
| (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 | 35 |

- (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: 5
 - (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. 10
- (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 15
 - (c) include a statement of the objective of the notice; and
 - (d) be published in the *Gazette*.
- (4) An EPA notice must be publicly notified, along with a statement stating the extent of consultation that took place before the notice was made.
- (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)**. 20
- (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. 25
- (7) A failure to comply with **subsections (1), (3), and (4)** does not affect the validity of any EPA notice made under this Act.

76C Application of Legislation Act 2012 to EPA notices

An EPA notice is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act. 30

274 Section 77 amended (Controls on hazardous substances)

- (1AA) In the heading to section 77, replace “**Controls**” with “**EPA controls**”.
- (1AB) In section 77(1), replace “degree of hazard of that substance” with “degree or type of hazard of that substance, if applicable”. 35
- (1) Replace section 77(2) and (2A) with:

- (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: 5
 - (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. 10
- (4) Replace section 77(7) with:
- (7) Any restrictions and prohibitions on the sale of fireworks prescribed under section **76(1)(j)** or ~~140(1)(r)~~ **140(1)(r) or (s)** are in addition to any EPA controls placed on fireworks under this section to control their explosive properties. 15
- 275 Section 77A amended (Authority’s power to impose controls and vary specified controls)**
- (1AA) In the heading to section 77A, after “**impose**”, insert “**EPA**”.
- (1) In section 77A(1), after “the Authority thinks fit”, insert “for the purpose of setting EPA controls”. 20
- (2) Replace section 77A(2) with:
- (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 25
 - (b) a restriction on the use of a substance.
- (2A) In section 77A(3), after “this section are”, insert “EPA”.
- (2B) Replace section 77A(4) with:
- (4) Before imposing a control under this section, the Authority must be satisfied that, either— 30
- (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 35
 - (iii) the proposed control is more likely to achieve its purpose; or

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|------------|---|----|
| | <p>(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.</p> | |
| (3) | Replace section 77A(5) with: | |
| (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. | 5 |
| 276 | Section 77B amended (Exposure limits for substances with toxic or ecotoxic properties) | |
| (1) | Repeal section 77B(2)(c). | 10 |
| (2A) | In section 77B(4), after “this section are”, insert “EPA”. | |
| (2) | In section 77B(6), definition of environmental exposure limit , replace “regulations made under section 75” with “EPA notices”. | |
| (3) | In section 77B(6), definition of tolerable exposure limit , replace “regulations made under section 75” with “EPA notices”. | 15 |
| (4) | In section 77B(6), repeal the definition of workplace exposure standard . | |
| 277 | Section 78 amended (Codes of practice) | |
| (1AA) | In section 78(1), after “included in”, insert “EPA”. | |
| (1) | In section 78(1), after “regulations”, insert “or an EPA notice”. | |
| (2) | Replace section 78(6) with: | 20 |
| (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. | 25 |
| 278 | Section 82 replaced (Issue of test certificates by test certifiers) | |
| | Replace section 82 with: | |
| 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— | 30 |
| | (a) from a certifier authorised under section 221(i) of the Health and Safety Reform Act 2014 that certifies that any specified requirement has been met; or | 35 |
| | (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.
- 279 Sections 82A, 82B, and 83 to 86 repealed**
Repeal sections 82A, 82B, and 83 to 86.
- 279A Section 82C amended (Revocation of test certificates)** 5
(1) In the heading to section 82C, delete “test”.
(2) In section 82C(1), (2), and (8) delete “test” in each place where it appears.
- 280 Cross-heading above section 95A amended**
In the cross-heading above section 95A, delete “*and licences*”.
- 281 Section 95B repealed (Licences)** 10
Repeal section 95B.
- 282 Section 96B amended (Group standards)**
Replace section 96B(1)(b) with:
(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. 15
- 283 Section 96C amended (When group standards may be issued or amended)**
(1AA) In section 96C(1)(g), after “types of”, insert “EPA”.
(1) Replace section 96C(1)(h) with:
(h) comply with the requirements of **section 53(1A)** (which relates to public notification). 20
(2) In section 96C(3), after “this section”, insert “or **section 53(1A)**”.
- 283A Section 96D amended (Revocation of group standards)**
In section 96D(1), replace “section 53” with “**section 53(1A)**”.
- 284 Section 97 amended (Enforcement of Act)** 25
(1) Replace section 97(1)(a) with:
(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: 30
(1A) After section 97(1)(d), insert:
(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:

(1B) In section 97(1)(e), after “any aircraft”, insert “and that the provisions of this Act relating to the discharge of hazardous substances from an aircraft are enforced”.

(2) After section 97(2), insert:

(3) The Authority must ensure that the following matters are enforced: 5

(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: 10

(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). 15

285 Section 97B replaced (Enforcement of Act in respect of hazardous substances in place of work) 20

Replace section 97B with:

97B Enforcement of Act in respect of hazardous substances in workplace

An inspector appointed under **section 181** of the **Health and Safety Reform Act 2014** 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. 25

285AA New section 97C inserted (Sharing of information between Authority and enforcement agencies)

After section 97B, insert:

97C Sharing of information between Authority and enforcement agencies 30

(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 35

(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. 5
- (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: 10
- (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 1993. 15
- (5) This section applies despite anything to the contrary in any contract, deed, or document.

285A Section 99 amended (Supervision of inspection)

In section 99(4), replace “compressed gases” with “gases under pressure”.

285B Section 103 amended (Powers of entry for inspection) 20

- (1) In the heading to section 103, after “**inspection**”, insert “**relating to new organisms**”.
- (2) In section 103(1)(c), delete “hazardous substance or” in each place where it appears.
- (3) In section 103(1)(d), delete “substance or”. 25

285C New section 103A inserted (Powers of entry for inspection relating to hazardous substances)

After section 103, insert:

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)**,— 30
- (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 35

- (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 5
 - (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 10
 - (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 15
 - (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. 20
- (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 25
 - (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 30
 - (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. 35
- (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— 5
- (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. 10
- (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. 15
- 286 Section 109 amended (Offences)**
- (1AA) In section 109(1)(a), before “manufactures”, insert “imports or”. 20
- (1AB) After section 109(1)(d), insert:
- (da) fails to comply with any requirements in an EPA notice made under **section 76A(d) or (f)**; or
- (1AC) Replace section 109(1)(e) with:
- (e) fails to comply with— 25
 - (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 30
 - (iiia) any prohibition specified in any regulations; or
 - (iv) any controls specified in any regulations or an EPA notice relating to a hazardous substance; or
 - (v) any requirement to obtain a certificate specified in any regulations or an EPA notice; or 35
- (1) In section 109(1)(eb), after “substances”, insert “or products”.

287 Section 111 amended (Commission of infringement offence)

In section 111, insert as subsection (2):

- (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.

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287A Section 113 amended (Entitlement to infringement fees)

In section 113, insert as subsections (2) and (3):

- (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.

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287B Section 117 amended (Strict liability and defences)

Repeal section 117(4).

288 Section 125 amended (Appeals)

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(1AA) In section 125(5)(a), replace “controls” with “EPA controls”.

- (1) After section 125(7), insert:
- (8) An appeal under this section must be made and determined in accordance with the District Courts Act 1947 and the District Courts Rules 2014.

289 Section 140 amended (Regulations)

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- (1) Repeal section 140(1)(c), (e), (f), (g), (n), and (p).
- (2) In section 140(1)(d), delete “substance or” and “or manufactured”.
- (2A) In section 140(1)(j), replace “\$1,000” with “\$3,000”.
- (3) Replace section 140(1)(k) with:
- (k) prescrib[ing] countries or organisations for the purposes of sections 34, 38A, and 40 (which relate to new organisms):
- (4) In section 140(1)(l), after “approval”, insert “relating to new organisms”.
- (5) In section 140(1)(m), after “this Act”, insert “relating to new organisms and prescrib[ing] forms of search warrants under this Act”.
- (6) Replace section 140(1)(o) with:
- (o) prescrib[ing] qualifications for enforcement officers appointed under section 100 who perform functions relating to new organisms:
- (6A) After section 140(1), insert:
- (1A) Regulations made under subsection (1)(i) may (without limitation) prescrib[e] as an infringement offence the failure to comply with—

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- (a) any control referred to in section 109(1)(e)(ii) or (iv) that is specified or described in the regulations:
 - (b) 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:
 - (c) any requirement referred to in section 109(1)(e)(v) or (vi):
- (7) Repeal section 140(2), (4), and (5).
- (8) In section 140(3), after “Any regulations”, insert “or other instrument”.

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289 Section 140 replaced (Regulations)

Replace section 140 with:

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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:

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| <p>(i) <u>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:</u></p> | |
| <p>(j) <u>prescribing countries or organisations for the purpose of sections 34, 38A, and 40 (which relate to new organisms):</u></p> | 5 |
| <p>(k) <u>prescribing information to be provided with any application for approval relating to new organisms:</u></p> | |
| <p>(l) <u>prescribing forms for the purpose of this Act that relate to new organisms and prescribing forms of search warrants under this Act:</u></p> | |
| <p>(m) <u>prescribing qualifications for enforcement officers appointed under section 100 who perform functions relating to new organisms:</u></p> | 10 |
| <p>(n) <u>prescribing controls for by-products with hazardous properties, which result from the manufacture of any substance:</u></p> | |
| <p>(o) <u>prescribing damage as serious environmental damage for the purpose of section 144:</u></p> | 15 |
| <p>(p) <u>prescribing prohibitions on the possession, importation, and manufacture of any hazardous substance:</u></p> | |
| <p>(q) <u>prescribing restrictions on the access to or use of a hazardous substance outside the workplace:</u></p> | |
| <p>(r) <u>prescribing restrictions on the sale of any hazardous substance:</u></p> | 20 |
| <p>(s) <u>prescribing prohibitions on the sale of specified fireworks:</u></p> | |
| <p>(t) <u>providing for any matters contemplated by this Act, necessary for its administration or necessary for giving it full effect.</u></p> | |
| <p>(2) <u>Regulations may be made under subsection (1)(c) only if the Minister has considered—</u></p> | 25 |
| <p style="padding-left: 20px;">(a) <u>whether the organism has formed a self-sustaining population in New Zealand; and</u></p> | |
| <p style="padding-left: 20px;">(b) <u>whether any person is attempting to manage, control, or eradicate the organism under any Act.</u></p> | |
| <p>(3) <u>Regulations made under subsection (1)(h) may (without limitation) prescribe as an infringement offence the failure to comply with—</u></p> | 30 |
| <p style="padding-left: 20px;">(a) <u>any control referred to in section 109(1)(e)(ii) or (iv) that is specified or described in the regulations:</u></p> | |
| <p style="padding-left: 20px;">(b) <u>any requirement referred to in section 109(1)(e)(v):</u></p> | |
| <p style="padding-left: 20px;">(c) <u>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.</u></p> | 35 |
| <p>(4) <u>Regulations may be made under subsection (1)(p), (q), or (r) only if the Minister—</u></p> | |

- (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. 5
- (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: 10
 - (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. 15

290 Section 141 amended (Procedure for making Orders in Council)

After section 141(2), insert:

- (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 **Parts 1 to 5 of the Health and Safety Reform Act 2014**. 20

290A Section 142 amended (Relationship to other Acts)

After section 142(6), insert:

- (7) Nothing in this Act affects the requirements of **Parts 1 to 5 of the Health and Safety Reform Act 2014**, or of any regulations or safe work instruments made under that Act, that relate to hazardous substances in a workplace. 25

290B Section 144 amended (Reporting of incidents)

Replace section 144(1) with:

- (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 18 of the Health and Safety Reform Act 2014**, or serious environment damage must, unless an enforcement officer attended the incident or subsection (2) applies, report that incident to an enforcement officer. 30

291 Schedule 2A amended 35

In Schedule 2A, first column, insert in its appropriate alphabetical order:

Polychlorinated dibenzo-
p-dioxins and dibenzofur-
ans (PCDD/PCDF)

292 Schedule 7 replaced

Replace Schedule 7 with the **Schedule 7** set out in **Schedule 5** of this Act.

293 Consequential and other amendments to principal Act

Amend the principal Act as set out in **Schedule 6**.

294 Amendments to other enactments

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Amend the enactments specified in **Schedule 7** in the manner set out in that schedule.

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Schedule 5
Schedule 7 replaced in Hazardous Substances and New Organisms
Act 1996

s 292

Schedule 7
Transitional and savings provisions relating to amendments to Act

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s 3A

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— 10

- (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 15

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 20
- (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 25

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 30
- (b) includes any conditions imposed on a hazardous substance by a group standard in force immediately before the commencement of this schedule 35

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 Parts 1 to 5 of the Health and Safety Reform Act 2014 | |
| | 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 | 5 |
| | new controls means the controls prescribed in an EPA notice issued under this Act on or after the commencement of this schedule. | |
| 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— | 10 |
| | (a) this schedule; or | |
| | (b) further transitional measures. | |
| 3 | Limitation on effect of existing prescribed controls | 15 |
| | An existing prescribed control has no legal effect to the extent that it is replaced by any regulations or safe work instruments made under Parts 1 to 5 of the Health and Safety Reform Act 2014 . | |
| 4 | Existing prescribed controls applying to approvals (including deemed approvals) | 20 |
| (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. | 25 |
| (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— | 30 |
| | (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. | 35 |

- (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— 5
- (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, by notice in the *Gazette*, issue a new group standard. 10
- (7) If the Authority issues a group standard in accordance with this clause— 15
- (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.
- 5 Existing group standards** 20
- (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— 25
- (a) reissued the group standard under **subclause (3)**; or
 - (b) revoked the group standard under **section 67B**.
- (3) The Authority may review and, by notice in the *Gazette*, amend and reissue a group standard for the purpose of updating the group standard to— 30
- (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. 35
- (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

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| | 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 | 5 |
| | (b) the group standard must be treated as if it has been issued under section 96B in accordance with the requirements of this Act. | |
| 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 | 10 |
| | (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. | 15 |
| (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— | 20 |
| | (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— | 25 |
| | (a) WorkSafe under Parts 1 to 5 of the Health and Safety Reform Act 2014 ; or | |
| | (b) the Authority, under this Act. | |
| 7 | Pre-commencement action relating to EPA notices | |
| | Subsections (1) and (2) of section 76B 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. | 30 |
| 8 | Transitional matters may be provided for in regulations | |
| (1) | The Governor-General may, by Order in Council, make regulations providing for transitional and savings matters that are in addition to, or in place of, the provisions of this schedule and that are necessary because of the coming into force of subpart 2 of Part 6 of the Health and Safety Reform Act 2014 . | 35 |

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Bill**

Schedule 5

- (2) Transitional and savings provisions enacted under this clause are revoked at the close of whichever of the following periods ends first:
- (a) the period during which the provisions are stated to be in force:
 - (b) the period of 3 years from the commencement of this schedule.

9 Expiry of clause 8

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Clause 8 expires at the close of 3 years after the commencement of this schedule and is then repealed.

Schedule 6
**Consequential and other amendments to Hazardous Substances and
New Organisms Act 1996**

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| Section 19 | 5 |
| Repeal section 19(2)(f) and (i). | |
| In section 19(2)(h), delete “or licence” in each place. | |
| In section 19(2)(h), replace “Ministry of Agriculture and Forestry” with “department for the time being responsible for the administration of the Biosecurity Act 1993”. | |
| Section 20 | 10 |
| In section 20(2)(e), delete “and any associated licences granted under section 95B”. | |
| Section 24 | |
| In section 24, replace “section 11(e)” with “section 11(1)(e)”. | |
| Section 47 | 15 |
| In section 47(1)(e), after “any regulations”, insert “or any EPA notice”. | |
| Section 49D | |
| In section 49D(2)(d), after “any regulations”, insert “or any EPA notice”. | |
| Section 63B | |
| In section 63B(2)(b), replace “section 96C(1)(h)(ii)” with “section 53(1A)(c) ”. | |
| In section 63B(3), replace “sections 96C(1)(h) and (2)” with “sections 53(1A) , 96C(2),”. | |
| Part 6 | |
| In the heading to Part 6, replace “ Controls ” with “ EPA controls ”. | |
| Section 88 | 25 |
| In section 88(a)(ii), after “scheme and”, insert “EPA”. | |
| Section 89 | |
| In section 89(1), after “delete any”, insert “EPA”. | |
| Section 91 | |
| In section 91(d), after “any other”, insert “EPA”. | |
| Section 96 | 30 |
| In section 96(1), after “by the”, insert “EPA”. | |

Section 96—*continued*

In section 96(1)(b), after “charge and”, insert “EPA”.

In section 96(3)(e), after “removing any”, insert “EPA”.

In section 96(3)(f), after “combination of”, insert “EPA”.

Section 102

In section 102(1), replace “sitework” with “building work” in each place. 5

In section 102(2), replace “**sitework**” with “**building work**”.

Section 104

In section 104(1)(a)(i), after “any regulations,”, insert “any EPA notice,”.

In section 104(1)(b), after “any regulations,”, insert “any EPA notice, or any”.

In section 104(1)(b), replace “any regulations or” with “any regulations, any EPA notice, or”. 10

Section 106

In section 106(2)(a), replace “notice” with “compliance order”.

Section 109

In section 109(1)(ea), replace “licence or permission granted under section 95A or section 95B” with “permission granted under section 95A”. 15

Section 117

In section 117(3), delete “test” in each place.

Section 119

In section 119(1)(a), after “developed,”, insert “supplied,”. 20

Section 124

In section 124(1)(a) and (2)(a), after “regulations”, insert “or any EPA notice”.

In section 124(1)(b), replace “port of entry or Customs airport” with “port or airport of entry”.

Section 125

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In section 125(1)(da), delete “test”.

Repeal section 125(1)(e), (f), and (g).

Replace section 125(1A) with:

(1A) A person may appeal to the District Court against a decision of the Authority, under section 95A,— 30

(a) about the terms and conditions of a permission held by the person; or

Section 125—*continued*

- (b) declining to grant the person a permission or revoking a permission held by the person.

In section 125(5)(a), replace “controls” with “EPA controls”.

Section 141

In section 141(1), replace “section 9(1), section 55(7), section 140(1)(i), (j), (m), or (n), or section 140A” with “section 9(1), 55(7), 140(1)(i), (j), or (m), or 140B”. 5

Section 141A

In section 141A(1), after “any regulations,”, insert “EPA notice,”.

In section 141A(1)(b), replace “a group standard, notice of transfer, or code” with “an EPA notice, a group standard, a notice of transfer, or a code”. 10

In section 141A(1)(b), after “of the regulations,”, insert “EPA notice,”.

In section 141A(2), after “in regulations,”, insert “an EPA notice,”.

In section 141A(2), after “in the regulations,”, insert “EPA notice,”.

In section 141A(3), after “the regulations,”, insert “EPA notice,”.

Section 141B

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In section 141B(1), after “the regulations,”, insert “EPA notice,”.

In section 141B(2)(b), after “incorporated in”, insert “an EPA notice or”.

Section 141C

In section 141C(2), after “reference in”, insert “an EPA notice or”.

In section 141C(3), after “the regulations,”, insert “EPA notice,”. 20

Section 141D

In section 141D(1), after “the regulations,”, insert “EPA notice,”.

In section 141D(2)(b), after “incorporated in”, insert “an EPA notice or”.

Section 141E

In section 141E, after “in relation to material incorporated in regulations”, insert “, an EPA notice,”. 25

In section 141E(b), after “incorporated in”, insert “an EPA notice or”.

Section 141F

In section 141F(3), after “part of the”, insert “EPA notice or”.

In section 141F(4)(b), after “for approval”, insert “; or”. 30

After section 141F(4)(b), insert:

Section 141F—*continued*

- (c) in the case of an EPA notice, in accordance with **section 76B** (with all necessary modifications) as if the proposed amendment or replacement were a proposal to amend an EPA notice.

After section 141F(4), insert:

- (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.

In section 141F(5), after “by reference or”, insert “an EPA notice or”.

New section 141GA

After section 141G, insert:

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—

New section 141GA—*continued*

- (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. 5
- (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— 10
- (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. 15
- (6) A failure to comply with this section does not invalidate an EPA notice that incorporates material by reference. 20

Section 141I 20

In section 141I, after “regulations,”, insert “EPA notices,” in each place.

Section 142

In section 142(2), replace “regulations and notices of transfer made” with “regulations, EPA notices, and notices of transfer made or issued”.

In section 142(6), replace “regulations made” with “EPA notices issued” in each place. 25

Schedule 3

In Schedule 3, the Part 3 heading, after “addressed by”, insert “EPA”.

In Schedule 3, Part 3, clause 1, replace “the controls” with “the EPA controls”.

In Schedule 3, Part 3, clause 2, replace “the controls” with “the EPA controls”. 30

In Schedule 3, Part 3, clause 3, replace “controls” with “EPA controls”.

In section 104(1)(a)(i) and (b), after “any regulations,”, insert “any EPA notice,”.

Schedule 7
Amendments to other enactments relating to hazardous substances

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Part 1
Amendments to Acts

5

Building Act 2004 (2004 No 72)

Replace section 42A(2)(d) with:

- (d) the building to which the building work relates is not a hazardous substance location that is required to be authorised under **Parts 1 to 5 of the Health and Safety Reform Act 2014** or any regulations made under that Act. 10

Gas Act 1992 (No 1992 No 124)

In section 37(4), after “Hazardous Substances and New Organisms Act 1996”, insert “or **Parts 1 to 5 of the Health and Safety Reform Act 2014**”.

Medicines Act 1981 (1981 No 118)

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In section 110(2), replace “regulations made under that Act” with “regulations made or EPA notices issued under that Act”.

Psychoactive Substances Act 2013 (2013 No 53)

In section 104(3)(b), replace “regulations made under the HSNO Act” with “regulations made or EPA notices issued under the HSNO Act”. 20

Summary Proceedings Act 1957 (1957 No 87)

In section 2(1), definition of **infringement notice**, after paragraph (e), insert:

- (ea) section 112 of the Hazardous Substances and New Organisms Act 1996;
or

Terrorism Suppression Act 2002 (2002 No 34)

25

In section 13B(2), replace “the Hazardous Substances and New Organisms Act 1996” with “**Parts 1 to 5 of the Health and Safety Reform Act 2014**”.

In section 13B(2), delete “; or” and repeal paragraph (b).

In section 13B(3)(a), after “2011”, insert “or by WorkSafe established by section 5 of the WorkSafe New Zealand Act 2013”. 30

Part 2
Amendments to legislative instruments

Auckland International Airport By-laws Approval Order 1989 (SR 1989/369)

In the Schedule, clause 57(1), replace “the Hazardous Substances and New Organisms Act 1996, or any applicable regulations or bylaws” with “**Parts 1 to 5 of the Health and Safety Reform Act 2014**, or any applicable regulations, instruments, or bylaws”. 5

Christchurch International Airport By-laws Approval Order 1989 (SR 1989/405)

In the Schedule, clause 58(1), replace “the Hazardous Substances and New Organisms Act 1996, or any applicable regulations or bylaws” with “**Parts 1 to 5 of the Health and Safety Reform Act 2014**, or any applicable regulations, instruments, or bylaws”. 10

Dunedin International Airport Bylaws Approval Order 2005 (SR 2005/259)

In the Schedule, clause 22(1), replace “made under the Hazardous Substances and New Organisms Act 1996” with “and instruments made under **Parts 1 to 5 of the Health and Safety Reform Act 2014**”. 15

Far North Holdings Limited Bylaws Approval Order 2005 (SR 2005/133)

In the Schedule, clause 22(1), replace “made under the Hazardous Substances and New Organisms Act 1996” with “and instruments made under **Parts 1 to 5 of the Health and Safety Reform Act 2014**”. 20

Hawke’s Bay Airport Bylaws Approval Order 2009 (SR 2009/217)

In the Schedule, clause 45(1), replace “made under the Hazardous Substances and New Organisms Act 1996” with “and instruments made under **Parts 1 to 5 of the Health and Safety Reform Act 2014**”. 25

Hazardous Substances (Fireworks) Regulations 2001 (SR 2001/121) 25

In regulation 6(4), delete “test”.

In the heading to regulation 9, delete “test”.

In regulation 9(1), (2), and (3)(a), delete “test”.

In the heading to regulation 10, delete “test”.

In regulation 10(1), (1A), (4), and (5), delete “test” in each place. 30

In the heading to regulation 11, replace “**Test certificate**” with “**Certificate**”.

In regulation 11(1) and (3), delete “test”.

In regulation 11(4), replace “test certificate” with “certificate”.

Medicines Regulations 1984 (SR 1984/143)

In Schedule 1, Part 1, replace item 118 with: 35

Medicines Regulations 1984 (SR 1984/143)—*continued*

118 Amyl nitrite, except when sold to a person who is appropriately authorised under **Parts 1 to 5 of the Health and Safety Reform Act 2014**

Nelson Airport Bylaws Approval Order 2007 (SR 2007/361)

In the Schedule, clause 43(1), replace “made under the Hazardous Substances and New Organisms Act 1996” with “and instruments made under **Parts 1 to 5 of the Health and Safety Reform Act 2014**”.

Palmerston North International Airport Bylaws Approval Order 2003 (SR 2003/144) 5

In the Schedule, clause 22(1), replace “made under the Hazardous Substances and New Organisms Act 1996” with “and instruments made under **Parts 1 to 5 of the Health and Safety Reform Act 2014**”.

Queenstown Airport Bylaws Approval Order 2009 (SR 2009/236) 10

In the Schedule, clause 49(1)(b), replace “made under the Hazardous Substances and New Organisms Act 1996” with “and instruments made under **Parts 1 to 5 of the Health and Safety Reform Act 2014**”.

Legislative history

25 August 2015

Divided from Health and Safety Reform Bill (Bill 192–2) as Bill 192–3C