

**Reprint
as at 1 October 2012**



**Hazardous Substances and New
Organisms (New Organisms Forms
and Information Requirements)
Regulations 1998
(SR 1998/218)**

Michael Hardie Boys, Governor-General

Order in Council

At Wellington this 27th day of July 1998

Present:

The Right Hon Jenny Shipley presiding in Council

Pursuant to section 140(1)(l) and (m) of the Hazardous Substances and New Organisms Act 1996, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, makes the following regulations.

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

These regulations are administered by the Ministry for the Environment.

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Regulations

1 Title and application

- (1) These regulations may be cited as the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Regulations 1998.
- (2) These regulations come into force on 29 July 1998.

2 Interpretation

In these regulations, unless the context otherwise requires,—
the Act means the Hazardous Substances and New Organisms Act 1996

benefit means the value of a particular positive effect expressed in monetary or non-monetary terms

cost means the value of a particular adverse effect expressed in monetary or non-monetary terms

risk means the combination of the magnitude of an adverse effect and the probability of its occurrence.

3 Applications generally

- (1) An application for approval must be in the relevant approved form (as defined in section 2(1) of the Act).
- (2) The application must contain sufficient detail to enable the Authority to make an informed decision.

Regulation 3(1): amended, on 21 October 2010, by regulation 4 of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2010 (SR 2010/326).

4 Application for approval to import for release or release from containment new organism

[Revoked]

Regulation 4: revoked, on 21 October 2010, by regulation 5 of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2010 (SR 2010/326).

5 Application for approval to import new organism into containment

[Revoked]

Regulation 5: revoked, on 21 October 2010, by regulation 5 of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2010 (SR 2010/326).

6 Application for approval to develop in containment genetically modified organism

[Revoked]

Regulation 6: revoked, on 21 October 2010, by regulation 5 of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2010 (SR 2010/326).

7 Application for approval to field test in containment new organism

[Revoked]

Regulation 7: revoked, on 21 October 2010, by regulation 5 of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2010 (SR 2010/326).

**8 Application for approval to import or release from
containment new organism in emergency***[Revoked]*

Regulation 8: revoked, on 21 October 2010, by regulation 5 of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2010 (SR 2010/326).

9 Assessment of risks, costs, and benefits

- (1) For the purpose of enabling risk to be identified and assessed, each application must include—
 - (a) the nature of the adverse effects of the organism; and
 - (b) the probability of occurrence and the magnitude of each adverse effect; and
 - (c) risk assessed as a combination of the magnitude of the adverse effect and the probability of its occurrence; and
 - (d) options and proposals for managing the risks identified; and
 - (e) the uncertainty bounds on the information contained in the assessment, expressed quantitatively where possible, but otherwise by narrative statements.
- (2) For the purpose of enabling costs and benefits to be identified and assessed, each application must include—
 - (a) the nature of the costs and benefits associated with the proposed new organism and whether they are monetary or non-monetary; and
 - (b) the magnitude or expected value of the costs and benefits and the uncertainty bounds on the expected value.
- (3) Relevant costs and benefits are those relating to New Zealand and which arise as a consequence of approving the application, including long-term, short-term, direct, and consequential costs and benefits.
- (4) The assessment of risks, costs, and benefits must include distributional effects over time, space, and groups in the community, and the uncertainty intervals associated with those estimates.

Regulation 9(1): amended, on 21 October 2010, by regulation 6(1) of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2010 (SR 2010/326).

Regulation 9(2): amended, on 21 October 2010, by regulation 6(2) of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2010 (SR 2010/326).

10 Information for public notice

- (1) The Authority may request the applicant to provide such further information as the Authority may reasonably require for the purposes of preparing a public notice if the Authority considers that the information contained in the application is insufficient for that purpose.
- (2) The applicant may withdraw the application if the applicant does not agree to the release of that further information, and, in that case, all the information supplied by the applicant, including the information contained in the original application, must be returned to the applicant.

11 Witness summons

[Revoked]

Regulation 11: revoked, on 21 October 2010, by regulation 7 of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2010 (SR 2010/326).

12 Compliance orders

A compliance order under section 106 of the Act must be in form 7.

13 Search warrant

A search warrant under section 119 of the Act must be in form 8.

Schedule

Forms

Form 1 r 4

Application for approval to import for release or
release from containment new organism

[Revoked]

Schedule form 1: revoked, on 21 October 2010, by regulation 8(1) of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2010 (SR 2010/326).

Form 2 r 5

Application for approval to import new
organism into containment

[Revoked]

Schedule form 2: revoked, on 21 October 2010, by regulation 8(1) of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2010 (SR 2010/326).

Form 3 r 6

Application for approval to develop in
containment genetically modified organism

[Revoked]

Schedule form 3: revoked, on 21 October 2010, by regulation 8(1) of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2010 (SR 2010/326).

Form 4 r 7

Application for approval to field test (including
large-scale fermentation) in containment new
organism

[Revoked]

Schedule form 4: revoked, on 21 October 2010, by regulation 8(1) of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2010 (SR 2010/326).

Form 5 r 8

Application for approval to import or release
from containment new organism in emergency

[Revoked]

Schedule form 5: revoked, on 21 October 2010, by regulation 8(1) of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2010 (SR 2010/326).

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(New Organisms Forms and Information
Requirements) Regulations 1998**

Schedule

Form 6

r 11

Witness summons to Environmental
Management Authority hearing

[Revoked]

Schedule form 6: revoked, on 21 October 2010, by regulation 8(1) of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2010 (SR 2010/326).

Form 7
Compliance order

r 12

*Section 106, Hazardous Substances and New Organisms
Act 1996*

To *[name and address]*

- 1 The reasons for this order are:
- 2 The action required to be taken *or* ceased *or* not taken is: *[give precise details]*.
- 3 The period within which the action must be taken *or* cease is *[specify period]*.
- 4 You have the right to appeal to the District Court against the whole or any part of this order by lodging a notice of appeal with the District Court in *[state place]* in accordance with section 125 of the Hazardous Substances and New Organisms Act 1996. If you lodge an appeal you may apply to the District Court for a stay of the compliance order until the determination of the appeal.
- 5 The name of the enforcement officer serving this notice is *[name]*.
- 6 The name and address of the agency whose enforcement officer served this order is:

Note: If you do not comply with this order or do not lodge a notice of appeal with the District Court you may be liable to prosecution under section 109 of the Hazardous Substances and New Organisms Act 1996.

.....
[Signature of enforcement officer]

.....
[Date]

Schedule form 7: amended, on 21 October 2010, by regulation 8(2) of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2010 (SR 2010/326).

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Schedule

Form 7—*continued*

Schedule form 7: amended, on 21 October 2010, by regulation 8(3) of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2010 (SR 2010/326).

Form 8
Search warrant

*Section 119, Hazardous Substances and New Organisms
Act 1996*

To [full name and level of position]/every constable*

*Select one.

1 Ground of warrant

I am satisfied, on an application made by [full name, address, occupation] that there are reasonable grounds for believing that there is, in or under or over [description of premises or dwelling], the following thing that (or things, each of which) is:

Select the applicable paragraph(s).

- (a) an organism that has been imported, manufactured, developed, released, held, transported, or disposed of in contravention of the Hazardous Substances and New Organisms Act 1996 (the Act):
- (b) a document or other record in respect of which there are reasonable grounds to believe may be evidence of the commission of an offence against the Act to which section 119(1)(a) of the Act applies:

[description of thing(s)]

The suspected offence(s) to which this warrant relates is/are*:
[specify]

*Select one.

2 Conditions

This warrant is subject to the following conditions: [specify].

3 Authority

Subject to the conditions set out above, this warrant authorises you, and any person called by you to assist,—

- (a) to enter and search the premises or dwelling; and
- (b) to search for and seize [description of what may be seized]; and

Form 8—*continued*

- (c) to seize anything else found in the course of carrying out the search, or as a result of observations at the premises or dwelling, if you have reasonable grounds to believe that you could have seized the item under any search warrant that you could have obtained or any other search power that you could have exercised; and
- (d) to use any force that is reasonable in the circumstances to enter or break open or access any area within the premises or dwelling for the purposes of carrying out the search and any lawful seizure; and
- (e) to use any assistance that is reasonable in the circumstances; and
Include paragraphs (f) and (g) only if the warrant is to be executed by a constable.
- (f) to search any person found on the premises or at the dwelling if there are reasonable grounds to believe that an item being searched for is on that person; and
- (g) to detain any person, for the purposes of determining whether there is any connection between that person and the object of the search,—
 - (i) who is on the premises or at the dwelling at the start of the search; or
 - (ii) who arrives on the premises or at the dwelling while the search is being carried out.

4 Remote access search

Omit this paragraph if the warrant does not authorise a remote access search.

[Set out the access information that identifies the thing to be searched remotely.]

5 Period of execution of warrant

The power to enter and search under this warrant may be exercised on 1 occasion/on *[specify the number of times that the warrant may be executed]**.

The warrant must be executed within 14 days/*[specify number of days that warrant is issued for, which must not exceed 30*

Form 8—*continued*

days] days* from the date of issue of this warrant.

*Select one.

Date of issue:

Name:

Signature:

(Judge/authorised issuing officer*)

*Select one.

Important information

Seizure of items

A list of things seized will be provided to you as soon as practicable after the seizure, and in any case not later than 7 days after the seizure.

Availability of privileges

These notes set out an explanation of the availability of privileges recognised for the purposes of a search conducted under this warrant and an outline of how any of those privileges may be claimed.

The notes provide general information relating to these matters. For further details relating to these matters, *see* sections 136 to 148 of the Search and Surveillance Act 2012 and the relevant sections of the Evidence Act 2006.

The following privileges are recognised for the purposes of a search conducted under this warrant:

- legal professional privilege (referred to in section 53(5) of the Evidence Act 2006) and privilege for communications with legal advisers (as described in section 54 of the Evidence Act 2006). A person who obtains professional legal services from a legal adviser has a privilege in respect of any communication between the person and the legal adviser if the communication was intended to be confidential and was made in the course of and for the purpose of the provision of professional legal services from the legal adviser:

Form 8—*continued*

- privilege for preparatory materials for proceedings (as described in section 56 of the Evidence Act 2006):
- privilege for settlement negotiations or mediation (as described in section 57 of the Evidence Act 2006):
- privilege for communications with ministers of religion (as described in section 58 of the Evidence Act 2006):
- privilege in criminal proceedings for information obtained by medical practitioners and clinical psychologists (as described in section 59 of the Evidence Act 2006):
- privilege for informers (as described in section 64 of the Evidence Act 2006):
- rights conferred on journalists under section 68 of the Evidence Act 2006 to protect certain sources.

Effect of privilege and how privileges may be claimed

Claims for privilege for things seized or sought to be seized

- 1 If you wish to claim privilege in respect of any thing seized or sought to be seized under this search warrant—
 - (a) you must, as soon as practicable, provide to the person responsible for executing the search warrant a particularised list of the things in respect of which the privilege is claimed:
 - (b) if the thing or things in respect of which you are claiming the privilege cannot be adequately particularised, you may apply to a District Court for directions or relief.

Interim steps pending resolution of privilege claim

- 2 While a claim of privilege is being determined, the person executing the search warrant—
 - (a) may secure the thing (including, if the thing is intangible, by making a forensic copy) and deliver the thing, or a copy of it, to the District Court to enable the determination of a claim to privilege; and
 - (b) must give you access to the thing secured; and
 - (c) must not search the thing secured, unless no claim of privilege is made, or a claim of privilege is withdrawn,

Form 8—*continued*

or the search is in accordance with the directions of the court determining the claim of privilege.

Searches affecting privileged materials

- 3 If the person who is to execute the search warrant has reasonable grounds to believe that any thing discovered in the search may be the subject of a privilege, he or she—
- (a) must provide to any person who he or she believes may be able to claim a privilege a reasonable opportunity to claim it; and
 - (b) may, if he or she is unable to identify or contact a person who may be able to claim a privilege, or that person's lawyer, within a reasonable period, apply to a District Court for a determination as to the status of the thing.

Effect of privilege

- 4 If you make a claim of privilege in respect of any thing that is seized or sought to be seized, you have the right—
- (a) to prevent the search of any communication or information to which the privilege would apply, pending determination of the claim to privilege, and subsequently if the claim to privilege is upheld:
 - (b) to require the return of a copy of, or access to, any such communication or information, pending determination of the claim to privilege.

Important: If you do not understand this information or if you want further advice about the availability of privileges and how any of those privileges may be claimed, you should consider getting legal advice on the matter immediately.

Inquiries

If you have any inquiries about this search, you should contact the enforcement officer or police officer in charge, whose details are below.

[*Officer's name or unique identifier*] at [*address of Police Station or other business address*].

Schedule form 8: replaced, on 1 October 2012, by regulation 4 of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2012 (SR 2012/255).

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**Hazardous Substances and New Organisms
(New Organisms Forms and Information
Requirements) Regulations 1998**

Marie Shroff,
Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 28 July 1998.

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- 1 General
 - 2 Status of reprints
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 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
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Notes

1 *General*

This is a reprint of the Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Regulations 1998. The reprint incorporates all the amendments to the regulations as at 1 October 2012, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not

included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989*

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint (most recent first)*

Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2012 (SR 2012/255)

Hazardous Substances and New Organisms (New Organisms Forms and Information Requirements) Amendment Regulations 2010 (SR 2010/326)
