



## **Imports and Exports (Asbestos-containing Products) Prohibition Order 2016**

Hon Sir William Young, Administrator of the Government

### **Order in Council**

At Wellington this 26th day of September 2016

Present:

His Excellency the Administrator of the Government in Council

This order is made under section 3 of the Imports and Exports (Restrictions) Act 1988 on the advice and with the consent of the Executive Council.

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### **Order**

#### **1 Title**

This order is the Imports and Exports (Asbestos-containing Products) Prohibition Order 2016.

## 2 Commencement

This order comes into force on 1 October 2016.

## 3 Interpretation

In this order, unless the context otherwise requires,—

**alternative non-asbestos products**, in relation to asbestos-containing products, means goods that—

- (a) fulfil the same purpose as the asbestos-containing products; but
- (b) do not contain asbestos

**asbestos-containing products** means goods that contain asbestos

**permit** means a permit granted under clause 5

**risk of exposure** means the risk to human health of exposure to asbestos that might reasonably be expected to result from the use or disposal of an asbestos-containing product.

## 4 Prohibition on importation of asbestos-containing products without permit

- (1) The importation of an asbestos-containing product is prohibited unless the importation is authorised by a permit.
- (2) However, subclause (1) does not apply if the product—
  - (a) is imported solely for the purpose of export; and
  - (b) is subject to the control of the Customs (as defined in section 20 of the Customs and Excise Act 1996) at all times while it is in New Zealand.

## 5 EPA may grant permit to import asbestos-containing product

- (1) The EPA may grant a permit authorising the importation of an asbestos-containing product.
- (2) The EPA must not grant a permit unless the applicant satisfies the EPA that—
  - (a) one of the following applies:
    - (i) there is no alternative non-asbestos product available;
    - (ii) the cost of using an alternative non-asbestos product would be disproportionately high having regard to the risk of exposure from the asbestos-containing product;
    - (iii) the product is to be used solely for the purposes of research and development or teaching; and
  - (b) the risk of exposure from the asbestos-containing product will be adequately managed.
- (3) The EPA may impose any conditions on a permit it considers appropriate.

**6 Duration of permit**

A permit remains in force for 12 months from the date it is granted or any shorter period stated in it (unless it is revoked before then under section 3BA of the Imports and Exports (Restrictions) Act 1988).

**7 Fees for permits**

- (1) The following fees are payable to the EPA in relation to an application for a permit:
  - (a) an application fee of \$650, which must be paid when the application is lodged;
  - (b) a fee charged on an hourly basis as specified in subclauses (2) and (3) (the **assessment fee**), which must be paid in accordance with an invoice issued by the EPA.
- (2) The assessment fee is payable only if—
  - (a) the total number of hours worked exceeds 2.5 hours; and
  - (b) the EPA has notified the applicant, in writing,—
    - (i) that the assessment fee will or may be payable; and
    - (ii) of the reasons why the number of hours has exceeded, or is likely to exceed, 2.5 hours.
- (3) The assessment fee is \$116 for each hour worked after the criteria in subclause (2)(a) and (b) have been met (with part-hours to be charged on a proportional basis).
- (4) The fees prescribed by this clause are exclusive of any goods and services tax.
- (5) In this clause, **hours worked** means hours or part-hours of work carried out in respect of the application by the EPA's employees, agents, or board members.

Michael Webster,  
Clerk of the Executive Council.

**Explanatory note**

*This note is not part of the order, but is intended to indicate its general effect.*

This order is made under the Imports and Exports (Restrictions) Act 1988 (the **Act**) and comes into force on 1 October 2016. The order prohibits the importation into New Zealand of goods that contain asbestos unless the importation is authorised by a permit. The prohibition does not apply to products that are being transhipped through New Zealand and remain subject to the control of the Customs.

The Environmental Protection Authority (**EPA**) is responsible for granting permits, which it may do only if it is satisfied of the matters set out in *clause 5(2)*. The order

allows the EPA to impose conditions on permits and provides for the payment of application and assessment fees. The Act also contains provisions relating to permits, including in relation to applying for and revoking permits.

### **Regulatory impact statement**

The Ministry for the Environment produced a regulatory impact statement on 31 March 2016 to help inform the decisions taken by the Government relating to the contents of this instrument.

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

- <http://www.mfe.govt.nz/more/cabinet-papers-and-related-material-search/regulatory-impact-statements/regulatory-impact-16>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 29 September 2016.  
This order is administered by the Ministry for the Environment.