

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

1 Short Title and commencement

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

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

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

Part 1 Preliminary

2 Interpretation

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

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

aerodrome has the same meaning as in section 2 of the Civil Aviation Act 1990

aircraft has the same meaning as in section 2 of the Civil Aviation Act 1990

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

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

Authority means the Environmental Risk Management Authority established under section 14

bioaccumulation means accumulation within the tissues of living organisms

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

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

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

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

compound means any chemical combination of chemical elements

conditional release approval means an approval under section 38C

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

container means any vessel or structure, whether moveable or fixed, in which hazardous substances may be cased, covered, enclosed, contained, or packed; and---

(a) includes,---

(i) any vessel (other than part of a vehicle's fuel system) which forms an integral part of any vehicle; and

(ii) any stationary container; and

(iii) any package;

(b) does not include any landfill

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

containment facility means,---

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

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

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

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

controls means any obligations or restrictions imposed on any hazardous substance or new organism, or on any person in relation to any hazardous substance or new organism, by this or any other Act or any regulations, rules, codes, or other documents made in accordance with the provisions of this or any

other Act for the purposes of controlling the adverse effects of that substance or organism on people or the environment

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

Crown entity---

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

(b) includes an organisation named or described in Schedule 4 of the Public Finance Act 1996

Customs officer means any person holding office as an officer of Customs under the Customs and Excise Act 1989

develop, in relation to organisms,---

(a) means---

(i) genetic modification of an organism:

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

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

(b) does not include field testing

disposal means,---

(a) in relation to a hazardous substance,---

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

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

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

(b) in relation to a new organism,---

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

(ii) exporting the organism from New Zealand

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

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

effect includes---

- (a) any potential or probable effect; and
- (b) any positive or adverse effect; and
- (c) any temporary or permanent effect; and
- (d) any past, present, or future effects; and
- (e) any acute or chronic effect; and
- (f) any cumulative effect which arises over time or in combination with other effects

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

environment includes---

- (a) ecosystems and their constituent parts, including people and communities; and
- (b) all natural and physical resources; and
- (c) amenity values; and
- (d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters

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

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

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

- (a) deflagration; or
- (b) pyrotechnic effects,---

and explosion has a corresponding meaning

exportation has the same meaning as in section 2(1) of the Customs and Excise Act 1996; and to export has a corresponding meaning

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

destroyed at the end of the trials

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

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

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

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

(a) heritable material; and

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

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

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

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

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

hazardous substance means, unless expressly provided otherwise by regulations, any substance---

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

(i) explosiveness:

(ii) flammability:

(iii) a capacity to oxidise:

(iv) corrosiveness:

(v) toxicity (including chronic toxicity):

(vi) ecotoxicity, with or without bioaccumulation; or

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

paragraph (a)

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

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

human cells---

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

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

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

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

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

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

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

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

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

importation, in relation to hazardous substances, has the same meaning as in section 2(1) of the Customs and Excise Act 1996; and to import, in relation to those substances, has a corresponding meaning

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

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

(a) their biological and genetic diversity; and

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

laboratory means a vehicle, room, building, or any other structure set aside

and equipped for scientific experiments or research, for teaching science, or for the development of chemical or medicinal products

landfill means any premises used for the lawful deposit or disposal of waste materials into or onto land

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

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

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

member means a member of the Authority

Minister means the Minister for the Environment

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

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

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

organism---

(a) does not include a human being:

(ab) includes a human cell:

(b) includes a micro-organism:

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

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

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

persistent organic pollutant---

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

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

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

person includes the Crown

place of work has the same meaning as in section 2(1) and (3) of the Health and Safety in Employment Act 1992

port of entry has the same meaning as in the Customs Act 1966

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

prescribed means prescribed by regulations made under this Act

public health has the same meaning as in section 6(1) of the New Zealand Public Health and Disability Act 2000

public notice means---

(a) a method determined by the Authority under section 53A; or

(b) if section 53A does not apply or no method has been determined under that section, a notice published in 1 or more daily newspapers circulating in the main metropolitan areas together with such other public notice (if any) as the Authority or Minister thinks fit

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

(a) is or contains a new organism; and

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

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

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

(a) is or contains a new organism; and

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

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

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

regulations means regulations in force under this Act

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

research and development, in relation to a hazardous substance, means systematic investigation or experimentation activities that involve innovation or technology transfer for the purpose of gaining knowledge about the

properties or uses of that substance

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

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

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

serious environmental damage means any environmental damage prescribed under section 140

serious harm has the same meaning as in Schedule 1 of the Health and Safety in Employment Act 1992

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

stationary container means any building or part of a building, or vessel supported by or incorporated in any building, which is expressly designed to contain any hazardous substance

Stockholm Convention---

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

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

substance means---

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

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

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

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

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

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

test certificate means a certificate issued by a test certifier in accordance with section 82

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

tracking system means a system established under regulations made under section 76

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

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

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

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

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

working day means any day except---

(a) a Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's Birthday, and Waitangi Day; and

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

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

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

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

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

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

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

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

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

Section 2(1) Customs officer: expression substituted, on 1 October 1996, pursuant to section 290(1) of the Customs and Excise Act 1996 (1996 No 27).

Section 2(1) develop: substituted, on 30 October 2003, by section 4(3) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

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

Section 2(1) exportation: expressions substituted, on 1 October 1996, pursuant to section 290(1) of the Customs and Excise Act 1996 (1996 No 27).

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

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

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

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

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

Section 2(1) importation: expressions substituted, on 1 October 1996, pursuant to section 290(1) of the Customs and Excise Act 1996 (1996 No 27).

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

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

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

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

Section 2(1) organism paragraph (a): substituted, on 30 October 2003, by section 4(5) of the Hazardous Substances and New Organisms Amendment Act 2003

(2003 No 54).

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

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

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

Section 2(1) place of work: expression substituted, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 2(1) place of work: words inserted, on 5 May 2003, by section 34 of the Health and Safety in Employment Amendment Act 2002 (2002 No 86).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2A Meaning of term new organism

(1) A new organism is---

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

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

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

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

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

(d) a genetically modified organism:

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

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

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

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

(ii) the organism is a qualifying organism and an approval has been granted under section 38I to release an organism of the same taxonomic

classification without controls; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 Act to bind the Crown

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

Crown.

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

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

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

(a) shall meet the requirements prescribed by regulations made in accordance with section 75; and

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

(5) The Chief of Defence Force---

(a) shall ensure that methods of controlling all hazardous substances not contained in any weapons system and controlled by the Minister of Defence conform to the relevant requirements prescribed by regulations made in accordance with section 75; and

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

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

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

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

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

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

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

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

Part 2
Purpose of Act

4 Purpose of Act

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

5 Principles relevant to purpose of Act

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

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

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

6 Matters relevant to purpose of Act

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

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

(b) the intrinsic value of ecosystems:

(c) public health:

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

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

(f) New Zealand's international obligations.

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

7 Precautionary approach

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

Section 7: expression inserted, on 31 December 2000, by section 4 of the

Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

8 Treaty of Waitangi

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

9 Methodology to be used

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

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

(a) develop a proposed methodology; and

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

(c) advise the Minister of any submissions received, and any comments the Authority wishes to make on the submissions, or the proposed methodology,--- and the Minister shall have regard to those submissions and comments.

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

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

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

Part 3 Powers, functions, and duties

10 Powers, functions, and duties of Minister

(1) The Minister may---

(a) Repealed

(b) Repealed

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

(d) carry out any powers, functions, and duties conferred on the

Minister by or under this Act.

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

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

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

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

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

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

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

11 Powers, functions, and duties of Authority

(1) The Authority may---

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

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

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

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

(b) monitor and review---

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

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

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

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

(e) enquire into any incident or emergency involving a hazardous

substance or a new organism:

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

(fa) approve forms for applications under Part 5:

(fb) approve standards for containment facilities:

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

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

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

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

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

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

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

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

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

12 Powers, functions, and duties of enforcement officers

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

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

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

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

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

13 General duty

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

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

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

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

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

Part 4 Environmental Risk Management Authority

14 Establishment of Authority

(1) There is hereby established an Authority to be called the Environmental Risk Management Authority.

(2) The Authority is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

(3) The Crown Entities Act 2004 applies to the Authority except to the extent that the Act expressly provides otherwise.

Section 14(2): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 14(3): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

15 Membership of Authority

(1) The Authority must have no fewer than 6, and no more than 8, members.

(2) Members of the Authority are the board for the purposes of the Crown Entities Act 2004.

(3) Members of the Authority hold office for 5 years or any shorter period stated in the notice of appointment.

(4) Subsection (3) applies despite section 32(1)(a) of the Crown Entities Act 2004.

Section 15: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

16 Eligibility for appointment as member of Authority

(1) When considering whether a person is suitable to be appointed as a member of the Authority, the Minister shall ensure that the membership includes a balanced mix of knowledge and experience in matters likely to come before the Authority.

(2) In subsection (1), matters includes matters relating to the Treaty of Waitangi and tikanga Māori.

(3) Subsection (1) does not limit section 29 of the Crown Entities Act 2004.

Section 16(2): added, on 30 October 2003, by section 8 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 16(3): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

17 Restriction on Ministerial direction

The Minister may not give a direction under section 104 of the Crown Entities Act 2004 that relates to the exercise of any power, duty, or function of the Authority under Part 5 of this Act.

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

18 Further provisions applying in respect of Authority

The provisions set out in Schedule 1 shall apply in respect of the Authority.

19 Delegation by Authority

(1) The Authority may, in writing, delegate to any person, any of the Authority's functions, powers, or duties under this Act, on such conditions as the Authority thinks fit, except---

- (a) the fixing of charges under section 21; and
- (b) except as provided in subsection (2), any decision making power; and
- (c) this power of delegation.

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

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

- (b) the power to hear and decide any other application made under Part 5

to any committee appointed for that purpose in accordance with Schedule 1:

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

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

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

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

(c) the power to decide any application for permission or other matter under Parts 11 to 16 to---

(i) any employee of the Ministry of Agriculture and Forestry, or of any person specified in section 97, with relevant experience in the subject matter of the application; or

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

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

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

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

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

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

(f) the power to hear and decide an application made under section 83 for approval as a test certifier to any person, whether or not that person is a member of the Authority:

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

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

(i) any employee of the Ministry of Agriculture and Forestry, any Medical Officer of Health (as defined in section 2(1) of the Health Act 1956), or any employee of any person specified in section 97, or any enforcement officer, with relevant experience in the subject matter of the application or the permission or licence; or

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

(i) the power to decide any application for any licence under Part 6, or the revocation of any licence under that Part, to any test certifier approved under section 84.

(3) Every decision made in accordance with a delegation under subsection (2) shall be treated in all respects as though it were a decision of the Authority.

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

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

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

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

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

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

(7) Sections 73 to 76 of the Crown Entities Act 2004 do not apply to the Authority.

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

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

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

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

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

Section 19(2)(c): added, on 31 December 2000, by section 6(1) of the Hazardous

Substances and New Organisms Amendment Act 2000 (2000 No 89).

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

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

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

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

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

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

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

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

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

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

20 Obligation to prepare and maintain register

(1) The Authority shall keep a register of all applications made to the Authority.

(2) The register shall specify---

(a) the name and address of the applicant:

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

(c) the purpose of the application:

(ca) if applicable, the project concerned:

(d) whether the application was approved or declined:

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

licences granted under section 95B:

(f) all the controls on a hazardous substance, whether the controls are imposed under this Act or any other Act.

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

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

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

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

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

21 Charges

(1) The Authority may from time to time---

(a) fix the charges---

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

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

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

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

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

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

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

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

(3) The Authority shall, after fixing any charges in accordance with this section, publicly notify the charges.

(4) Where the Authority fixes a scale of charges or a charge based on time,

the Authority shall provide an estimate of the full charge payable by any person upon request by that person.

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

22 Payments in advance

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

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

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

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

23 Fees for local authorities

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

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

24 Power to request information

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

Part 4A Nga Kaihautu Tikanga Taiao

Part 4A: inserted, on 30 October 2003, by section 11 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

24A Establishment of Nga Kaihautu Tikanga Taiao

This section establishes a committee to be called Nga Kaihautu Tikanga Taiao. Section 24A: inserted, on 30 October 2003, by section 11 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

24B Function of Nga Kaihautu Tikanga Taiao

(1) The function of Nga Kaihautu Tikanga Taiao is to provide advice and assistance to the Authority as sought by the Authority on matters relating to policy, process, and applications.

(2) The advice and assistance must be given from the Māori perspective and come within terms of reference set by the Authority for Nga Kaihautu Tikanga Taiao.

Section 24B: inserted, on 30 October 2003, by section 11 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

24C Appointment and remuneration of members and chair

(1) The Authority must appoint not fewer than 4 and not more than 8 members of Nga Kaihautu Tikanga Taiao.

(2) The Authority must appoint 1 of the members to be the chairperson of Nga Kaihautu Tikanga Taiao.

(3) The members of Nga Kaihautu Tikanga Taiao are entitled to be paid remuneration at a rate set by the Authority.

Section 24C: inserted, on 30 October 2003, by section 11 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

24D Review of terms of reference

The Authority must, at intervals of not more than 3 years, review the terms of reference set by it for Nga Kaihautu Tikanga Taiao.

Section 24D: inserted, on 30 October 2003, by section 11 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Part 5

Assessment of hazardous substances and new organisms

Prohibition of import, etc, and types of approval

25AA This Part subject to Part 5A

Repealed.

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

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

(1) No---

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

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

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

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

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

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

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

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

(7) Subsection (6) ceases to apply in respect of a hazardous substance or new organism on the date that section 55(3) to (4B) ceases to apply either to the Authority or to any information held by the Authority in relation to the hazardous substance or new organism concerned.

(8) In this section,---

innovative agricultural compound application has the same meaning as in section 72 of the Agricultural Compounds and Veterinary Medicines Act 1997

innovative medicine application has the same meaning as in section 23A of the Medicines Act 1981.

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

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

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

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

Section 25(6): added, on 30 October 2003, by section 12(2) of the Hazardous

Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 25(7): added, on 30 October 2003, by section 12(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 25(8): added, on 30 October 2003, by section 12(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

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

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

- (a) section 29B; or
- (b) section 30(a); or
- (c) section 30(ba), but only for research in a laboratory.

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

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

25B Prohibition on storage of persistent organic pollutants

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

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

(a) a persistent organic pollutant (other than polychlorinated biphenyls) stored in accordance with conditions specified by the Authority by notice in the Gazette; or

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

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

25C Continuation of certain exemptions under Toxic Substances Regulations 1983

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

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

(b) until the expiry of---

(i) the exemption; or

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

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

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

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

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

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

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

(a) section 30(a); and

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

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

26 Determination of new organism or hazardous substance

(1) The Authority may, by notice in the Gazette, on application by any person, determine whether or not any organism is a new organism, or (without limiting any regulations made under section 74(b)) whether or not any substance is a hazardous substance.

(2) Before issuing such a determination, the Authority shall have regard to---

(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.

(3) Any determination issued by the Authority under subsection (1) may be revoked or reissued on receipt of further information by the Authority.

Section 26 heading: words added, on 2 July 2001, by section 7(2) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 26(1): words added, on 2 July 2001, by section 7(1) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 26(2)(b): words omitted, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

27 Types of approval

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

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

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

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

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

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

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

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

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

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

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

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

27A Approvals at any taxonomic classification

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

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

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

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

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

Approvals for hazardous substances

28 Application for approval to import or manufacture hazardous substances

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

(a) import; or

(b) manufacture---

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

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

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

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

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

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

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

(f) such other information as may be prescribed.

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

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

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

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

28A Rapid assessment for importation or manufacture of hazardous substances

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

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

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

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

(3) Section 77 applies to a hazardous substance approved by the Authority under this section as if the approval had been given under section 29.

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

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

29 Determination of applications

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

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

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

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

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

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

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

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

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

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

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

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

(2) The provisions of section 77 shall apply to any substance approved by the Authority under subsection (1).

(3) The Authority shall give its decision in writing, including reasons for the decision, give written notice of the decision to the applicant and every person who made a submission, and publicly notify it.

29A Approvals for innovative agricultural compounds and medicines

Repealed.

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

29B Applications relating to persistent organic pollutants

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

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

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

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

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

Containment approvals for hazardous substances

30 Importing hazardous substances in containment

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

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

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

- (ii) the substance is a persistent organic pollutant; or
- (b) research on any hazardous substance to acquire information for use in assessing that substance in accordance with this Part; or
- (ba) research and development on any hazardous substance; or
- (c) use in an emergency under this or any other Act; or
- (d) such other purposes as the Authority thinks fit.

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

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

31 Application for hazardous substance containment approval

- (1) Every person intending---
 - (a) to import into containment; or
 - (b) manufacture in containment---

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

- (2) Every application shall be in an approved form and shall include---
 - (a) identification of the substance for which approval is sought:
 - (b) the purpose for which approval is sought:
 - (c) the quantity of the substance proposed to be imported or manufactured:
 - (d) information on all occasions where the substance has been considered by the government of any prescribed State or country or any prescribed organisation and the results of such consideration:
 - (e) such other information as may be prescribed:
 - (f) all information known to the applicant relating to the effects of the substance throughout the lifecycle of the substance:
 - (g) information on the proposed containment system.

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

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

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

32 Decision on application

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

(2) An approval under this section---

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

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

(3) The Authority shall give its decision, in writing, including reasons for the decision, give written notice of the decision to the applicant and every person who made a submission, and publicly notify it.

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

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

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

(a) the use occurs in a laboratory that meets the prescribed requirements; and

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

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

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

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

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

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

Assessment of new organisms for importation or release

34 Application for approval to import or release

(1) Every person intending---

(a) to import for release; or

(b) to release from containment---

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

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

(a) any information prescribed; and

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

(c) the identification of the organism; and

(d) any likely inseparable organisms; and

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

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

(g) the potential use for the organism.

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

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

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

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

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

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

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

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

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

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

35 Rapid assessment of risk for importation of new organisms

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

(2) If the Authority is satisfied that---

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

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

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

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

(iii) could cause deterioration of natural habitats; or

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

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

the Authority may approve the application without controls.

(3) If the Authority is satisfied that---

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

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

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

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

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

application in accordance with section 38.

36 Minimum standards

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

- (a) cause any significant displacement of any native species within its natural habitat; or
- (b) cause any significant deterioration of natural habitats; or
- (c) cause any significant adverse effects on human health and safety; or
- (d) cause any significant adverse effect to New Zealand's inherent genetic diversity; or
- (e) cause disease, be parasitic, or become a vector for human, animal, or plant disease, unless the purpose of that importation or release is to import or release an organism to cause disease, be a parasite, or a vector for disease.

37 Additional matters to be considered

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

- (a) the ability of the organism to establish an undesirable self-sustaining population; and
- (b) the ease with which the organism could be eradicated if it established an undesirable self-sustaining population.

38 Determination of applications to import or release

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

- (a) approve the application if---
 - (i) the organism meets the minimum standards set out in section 36; and
 - (ii) after taking into account all the effects of the organism, the effects of any inseparable organism and the matters in section 37, the positive effects of the organism outweigh the adverse effects of the organism and any inseparable organism; or
- (b) decline the application if---
 - (i) the organism fails to meet the said minimum standards; or
 - (ii) after taking into account all the effects of the organism, the effects of any inseparable organism, and the matters in section 37, the adverse effects of the organism and any inseparable organism outweigh the positive effects; or

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

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

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

(a) the organism is sooner released; or

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

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

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

(5) The Authority shall give its decision in writing, including reasons for the decision, give written notice of the decision to the applicant and every person who made a submission, and publicly notify it.

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

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

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

Conditional release of new organisms

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

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

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

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

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

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

- (c) the identification of the organism; and
- (d) any likely inseparable organisms; and
- (e) all the possible adverse effects of the organism on the environment;
and
- (f) the affinities of the organism with other organisms in New Zealand;
and
- (g) the proposed use for the organism; and
- (h) the controls that the applicant proposes the organism would be
subject to on its release.

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

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

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

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

The Authority may, with the agreement of the applicant, treat an application made under section 34 as if it were an application made under section 38A.

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

38C Determination of applications to import or release new organisms with controls

(1) The Authority may approve an application made under section 38A and grant a conditional release approval with controls, but only if the Authority determines that,---

(a) after taking into account the matters in subsection (3), the new organism is likely to meet the minimum standards set out in section 36; and

(b) there is sufficient information available to assess the adverse effects of the organism; and

(c) after taking into account the matters in subsection (2), the positive effects of the organism outweigh the adverse effects of the organism and any inseparable organism.

(2) The matters to be taken into account under subsection (1)(c) are---

(a) all the effects of the organism and any inseparable organism; and

(b) the ability of the organism to establish a self-sustaining

population; and

(c) the ease with which the organism could be recovered or eradicated if it established an undesirable self-sustaining population; and

(d) all the controls that will be imposed on the organism.

(3) The matters to be taken into account in subsection (1)(a) are---

(a) the controls that will be imposed on the approval; and

(b) whether the controls are likely to be effective in meeting the objective of the controls; and

(c) the ease with which the organism could be recovered or eradicated if it formed a self-sustaining population.

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

38D Controls

(1) The controls that the Authority may impose on a conditional release approval include---

(a) controlling the extent and purposes for which organisms could be used:

(b) requiring any monitoring, auditing, reporting, and record-keeping:

(c) imposing any obligation to comply with relevant codes of practice or standards (for example, to meet particular co-existence requirements):

(d) requiring contingency plans to be developed to manage potential incidents:

(e) limiting the dissemination or persistence of the organism or its genetic material in the environment:

(f) requiring the disposal of any organisms or genetic material:

(g) limiting the proximity of the organism to other organisms, including those that could be at risk from the conditionally released organism:

(h) setting requirements that must be met for any material derived from the organism:

(i) imposing obligations on the user of an approval, including levels of training or knowledge, limits on the numbers of users who may hold an approval, and the persons that they could deal with in respect of the organism:

(j) specifying the duration of the approval or of a control before requiring review by the Authority, and the nature of that review.

(2) Subsection (1) does not limit the type of controls the Authority may

impose on a conditional release approval.

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

38E Duration of conditional release approval

(1) A conditional release approval that expressly states that it does not expire expires on the close of the date on which the last control to which the approval relates expires.

(2) In any other case, a conditional release approval expires on the earlier of the following:

(a) the date of expiry (if any) specified in the approval; or

(b) if no date of expiry is specified, 5 years after the date on which the approval is granted; or

(c) the close of the date on which the last control to which the approval relates expires.

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

38F Consequences of expiry of conditional release approval

On the expiry of a conditional release approval, the new organism concerned must be disposed of unless, before the expiry of the approval, another approval has been granted under this Act.

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

38G Review of controls on conditional release approval

(1) The Authority may, on its own initiative or on the application of any user of a conditional release approval or of any person specified in section 97 or section 97A, review the controls that it has imposed on the conditional release approval, but only if---

(a) the review is to amend a control so that it better meets the objective of the control; or

(b) the control included a review requirement specifying---

(i) the circumstances in which the control would be reviewed; and

(ii) the potential consequences of the review.

(2) The Authority---

(a) may carry out the review without publicly notifying the review in accordance with section 53; but

(b) if it does so, must---

(i) consult, and consider the views of, the Department of Conservation and any other government agency (as defined in section 49A) that the Authority considers is likely to have an interest in the review; and

(ii) publicly notify the results of the review.

(3) This section does not limit section 67A.

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

38H Restriction on release of new organism subject to conditional release approval

A person who did not obtain a conditional release approval for a new organism that is subject to a conditional release approval must not release the new organism in accordance with the approval unless, before the release, the person has given notice in writing to the Authority of the proposed release.

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

Release of qualifying organisms

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

38I Assessment of applications for release of qualifying organisms

(1) If the Authority receives an application under section 34 that relates to a qualifying organism, the Authority may---

(a) make a rapid assessment of the adverse effects of importing for release or releasing from containment the qualifying organism; and

(b) approve the importation for release or the release from containment of the qualifying organism with or without controls.

(2) If the Authority does not approve an application under this section, the Authority must assess and determine the application under section 38.

(3) The Authority or the responsible chief executive, as the case may be, may determine that a qualifying organism is or is contained in a qualifying medicine or a qualifying veterinary medicine only if satisfied that, taking into account all the controls that will be imposed (if any), it is highly improbable that---

(a) the dose and routes of administration of the medicine or veterinary medicine would have significant adverse effects on---

(i) the health of the public; or

(ii) any valued species; and

(b) the qualifying organism could form an undesirable self-sustaining population and would have significant adverse effects on---

- (i) the health and safety of the public; or
- (ii) any valued species; or
- (iii) natural habitats; or
- (iv) the environment.

(4) In determining under subsection (3) whether a qualifying organism is or is contained in a qualifying medicine or a qualifying veterinary medicine, the following effects (if any) are not to be taken into account:

(a) any effect of the medicine or qualifying organism on the person who is being treated with the medicine:

(b) any effect of the veterinary medicine or qualifying organism on the animal that is being treated with the veterinary medicine.

(5) An approval granted under this section is not an approval---

(a) to use a qualifying medicine until the medicine has been lawfully supplied for use under the Medicines Act 1981; or

(b) to use a qualifying veterinary medicine until the veterinary medicine has been approved for use under the Agricultural Compounds and Veterinary Medicines Act 1997.

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

38J Procedure for assessing and approving application by responsible chief executive

If the Authority has delegated to the responsible chief executive its power to assess and approve an application under section 38 for the release of a qualifying organism, the responsible chief executive must---

(a) be paid the fee set by the Authority for the assessment and approval of the application; and

(b) determine whether the medicine is a qualifying medicine or the veterinary medicine is a qualifying veterinary medicine, as the case may be; and

(c) if the responsible chief executive is satisfied that the medicine is a qualifying medicine or the veterinary medicine is a qualifying veterinary medicine, the responsible chief executive may, with or without controls, approve the release of the qualifying organism.

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

38K Controls

(1) The type of controls that may be imposed on the importation for release or release from containment of a qualifying organism include---

(a) controls for the distribution of the qualifying medicine or qualifying veterinary medicine:

(b) controls providing for the methods of administering the qualifying medicine or qualifying veterinary medicine:

(c) controls concerning the persons who may administer the qualifying medicine or qualifying veterinary medicine:

(d) controls concerning the persons to whom the qualifying medicine may be administered:

(e) controls concerning the animals to which the qualifying veterinary medicine may be administered.

(2) Subsection (1) does not limit the type of controls that may be imposed on the importation for release or release from containment of a qualifying organism.

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

38L Review of controls for qualifying organisms

(1) The Authority may, on its own initiative or on the application of the holder of an approval under section 38I or of any person specified in section 97 or section 97A, review any controls that it has imposed on the approval, but only if---

(a) the review is to amend a control so that it better meets the objective of the control; or

(b) the control included a review requirement specifying---

(i) the circumstances in which the control would be reviewed; and

(ii) the potential consequences of the review.

(2) The Authority---

(a) may carry out the review without publicly notifying the review in accordance with section 53; but

(b) if it does so, must---

(i) consult, and consider the views of, any government agency (as defined in section 49A) that the Authority considers is likely to have an interest in the review; and

(ii) publicly notify the results of the review.

(3) This section does not limit section 67A.

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

Containment approval for new organisms

39 Importation or development of new organisms in containment

(1) The Authority may approve the importation, development, or field testing of any new organism into containment for the following purposes:

(a) the development of any new organism:

(b) field testing any new organism:

(c) maintaining a new organism for use in an emergency (as defined in section 46):

(d) the conservation of any genetic material:

(e) the public display of any organism including, but not limited to, display in a circus or zoological garden:

(f) maintaining a new organism in containment to produce antigens, biopesticides, biopharmaceuticals, enzymes, hormones, or vaccines for release:

(g) maintaining new organisms in containment for diagnostic purposes:

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

(2) A decision by the Authority under section 38 or section 38C or section 38I to decline an application does not prevent the Authority from granting an approval to import a new organism into containment, develop a new organism in containment, or field test a new organism in containment for 1 or more of the purposes specified in subsection (1).

(3) If an application has been made to the Authority for a conditional release approval, any person may apply to the Authority for approval to put the organism into containment and the application---

(a) must be treated in all respects as an application to import a new organism into containment; and

(b) may be granted only for 1 or more of the purposes specified in subsection (1).

(4) If an application has been made to the Authority for an approval under section 38I, any person may apply to the Authority for approval to put the qualifying organism into containment, and the application---

(a) must be treated in all respects as an application to import a new organism into containment; and

(b) may be granted only for 1 or more of the purposes specified in subsection (1).

Section 39(1)(a): word substituted, on 30 October 2003, by section 21(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 39(2): substituted, on 30 October 2003, by section 21(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 39(3): added, on 30 October 2003, by section 21(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 39(4): added, on 30 October 2003, by section 21(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

40 Application for containment approval for new organisms

(1) Every person intending---

- (a) to import into containment any new organism; or
- (b) to develop any new organism in containment; or
- (c) to field test any new organism in containment---

shall, before importing or developing or testing, apply to the Authority for approval to import or develop that new organism.

(2) Every application shall be in an approved form and shall include any information prescribed, information on all occasions where the organism has been considered by the government of any prescribed State or country, or by any prescribed organisation, and the results of such consideration, information about the containment system for the organism, and,---

(a) for the development of a genetically modified organism,---

- (i) the identification of the organism; and
- (ii) the description of the project and the experimental procedures to be used; and
- (iii) the details of the biological material to be used; and
- (iv) the expression of foreign nucleic acid material; and
- (v) all the possible adverse effects of the organism on the environment:

(b) for field testing of a genetically modified organism,---

- (i) the identification of the organism; and
- (ii) the purposes of the field testing; and

- (iii) the genetic modifications of the organism to be tested; and
- (iv) the nature and method of field trials and the experimental procedures to be used; and
- (v) all the possible adverse effects of the organism on the environment.

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

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

Section 40(2): words substituted, on 31 December 2000, by section 16 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 40(2)(a)(iv): words substituted, on 7 May 1999, by section 4 of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 40(2)(b): words omitted, on 30 October 2003, by section 22 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 40(2)(b)(ii): words omitted, on 30 October 2003, by section 22 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

41 Assessment of adverse effects of developing genetically modified organisms

The Governor-General may, from time to time, by Order in Council, make regulations---

(a) specifying the procedures and methods for assessing the probability that an adverse effect will occur from genetic modification of an organism:

(b) specifying the probability that adverse effects will occur from specified development procedures:

(c) specifying the circumstances in which genetic modification of an organism is a low risk genetic modification.

42 Rapid assessment of adverse effects for development of genetically modified organisms

(1) Where the Authority receives an application under section 40 to develop a genetically modified organism in containment, the Authority may make a rapid assessment of the adverse effects of developing that organism.

(2) If the Authority is satisfied that any development meets the criteria for a low-risk genetic modification specified in regulations made under section 41, the Authority may approve the application and impose such controls providing for each of the matters specified in Schedule 3 as the Authority thinks fit.

42A Rapid assessment of projects for low-risk genetic modification

(1) An application made under section 40 to develop a new organism in containment may, instead of specifying the information required by or under section 40(2), describe---

- (a) a project for the development of genetically modified organisms; and
- (b) the identity of the host organisms; and
- (c) the nature and range of the proposed genetic modifications.

(2) After the Authority receives an application under section 40 that complies with subsection (1), the Authority may make a rapid assessment of the adverse effects of carrying out the project if it is satisfied that---

(a) any host organism specified for the project meets the criteria for host organisms prescribed in regulations made under section 41; and

(b) any genetic modification specified for the project meets the criteria for genetic modification procedures prescribed in regulations made under section 41.

(3) If the Authority has completed a rapid assessment under subsection (2), the Authority may---

(a) approve the application; and

(b) impose controls providing for each of the matters specified in Schedule 3 as the Authority thinks fit; and

(c) direct the applicant to provide progress reports on the development at the times specified or required by the Authority.

Sections 42A: inserted, on 30 October 2003, by section 23 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

42B Rapid assessment of adverse effects for importation of genetically modified organisms into containment

(1) After the Authority receives an application under section 40 to import a genetically modified organism into containment, the Authority may make a rapid assessment of the adverse effects of importing the organism.

(2) If the Authority is satisfied that the importation meets the criteria for a low-risk genetic modification specified in regulations made under section 41, the Authority may approve the application and impose controls providing for each of the matters specified in Schedule 3 as the Authority thinks fit.

(3) Section 25(4) does not apply if an application is approved under this section by a person acting under delegated authority from the Authority under section 19(2)(a).

Sections 42B: inserted, on 30 October 2003, by section 23 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

43 Additional matters to be considered when application made for developing new organisms in containment

The Authority, when making a decision under section 45, must have regard to---

(a) in the case of an application made under section 40(1)(b) to genetically modify an organism, the matters specified in regulations made under section 41; and

(b) in the case of all applications made under section 40(1)(b), the matters specified in section 37.

Section 43: substituted, on 30 October 2003, by section 24 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

44 Additional matters to be considered on applications for importing and field testing of organisms

The Authority, when making a decision under section 45, on an application made under section 40(1)(a) or (c), shall have regard to---

(a) the matters in section 37; and

(b) the ability of the organism to escape from containment.

44A Additional matters to be considered for certain developments and field tests

(1) This section applies to an application---

(a) to develop a new organism in containment that is a genetically modified organism, to the extent that the development does not take place in a containment structure:

(b) to field test a new organism in containment if the new organism is a genetically modified organism.

(2) In deciding whether to approve or decline an application, the Authority must take into account---

(a) any adverse effects of developing or field testing the organism on---

(i) human health and safety; and

(ii) the environment, in particular ecosystems and their constituent parts; and

(b) any alternative method of achieving the research objective that has fewer adverse effects on the matters referred to in paragraph (a) than the development or field test; and

(c) any effects resulting from the transfer of any genetic elements to other organisms in or around the site of the development or field test.

(3) The matters referred to in subsection (2) are in addition to the matters

referred to in sections 44 and 45.

(4) Repealed.

Section 44A: inserted, on 28 May 2002, by section 7(1) of the Hazardous Substances and New Organisms (Genetically Modified Organisms) Amendment Act 2002 (2002 No 13).

Section 44A(4): repealed, on 30 October 2003, by section 25 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

45 Determination of application

(1) After considering any application for approval made under section 40, the Authority (if the application is not approved under section 42 or section 42A or section 42B) may, in its discretion,---

(a) approve the application if---

(i) the application is for 1 of the purposes specified in section 39(1); and

(ii) after taking into account all the effects of the organism and any inseparable organism, including, but not limited to, the effects on the matters in section 43 (for applications made under section 40(1)(b)) or the matters in section 44 (for applications made under section 40(1)(a) or (c)), the beneficial effects of having the organism in containment outweigh the adverse effects of the organism and any inseparable organism; and

(iii) the Authority is satisfied that the organism can be adequately contained; or

(b) decline the application in any other case.

(2) An approval under this section---

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

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

(3) The Authority shall give its decision in writing, including reasons for the decision, give written notice of the decision to the applicant and every person who made a submission, and publicly notify the decision.

(4) In taking into account the adverse effects of the organism under subsection (1)(a)(ii), the Authority must take into account---

(a) the adverse effects (if any) of having the organism and any inseparable organism in containment; and

(b) the probability that the organism may escape after considering all the controls to which the organism would be subject if the application were approved; and

(c) the effects of the organism, if the organism were to escape.

Section 45(1): words substituted, on 30 October 2003, by section 26(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 45(1)(a)(ii): words omitted, on 30 October 2003, by section 26(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 45(2): substituted, on 31 December 2000, by section 17 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 45(4): added, on 30 October 2003, by section 26(3) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

45A Controls required for certain developments and for all field tests

(1) This section applies to an approval under section 45---

(a) to develop a new organism in containment that is a genetically modified organism, to the extent that the development does not take place in a containment structure; or

(b) to field test a new organism in containment if the new organism is a genetically modified organism.

(2) An approval---

(a) must include controls to ensure that, after the end of the development or field test, the organism and any heritable material from the organism is removed or destroyed; and

(b) may include controls to ensure that, after the end of the development or field test and after heritable material is removed or destroyed, some or all of the genetic elements remaining from the organism are removed or destroyed.

(3) In subsection (2), destroyed includes leaving genetic elements to break down or become inactive at the site of the development or field test.

Section 45A: inserted, on 28 May 2002, by section 8(1) of the Hazardous Substances and New Organisms (Genetically Modified Organisms) Amendment Act 2002 (2002 No 13).

45B Animals in circus or zoological garden deemed approved under section 255

The Authority may, for a deemed approval under section 255,---

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

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

(c) remove or vary the conditions imposed under section 255 that the

organism remains at a particular place.

Section 45B: inserted, on 30 October 2003, by section 27 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Use of hazardous substances and new organisms in emergencies

46 Meaning of emergency

(1) For the purposes of section 30(c) and sections 47 to 49, emergency means---

(a) an event involving the release of a new organism for which a national pest management strategy has been approved under section 68 of the Biosecurity Act 1993; or

(b) a state of emergency declared under the Civil Defence Emergency Management Act 2002; or

(c) an emergency as defined in section 2 of the Fire Service Act 1975; or

(d) an emergency declared under Part 9; or

(e) a marine oil spill emergency under the Maritime Transport Act 1994.

(2) Sections 47 and 48 apply to every foreseeable emergency where the importation, release, or use of the hazardous substance or new organism in that emergency is also foreseeable.

Section 46(1)(b): substituted, on 1 December 2002, by section 117 of the Civil Defence Emergency Management Act 2002 (2002 No 33).

47 Application for approval to use a hazardous substance or new organism in an emergency

(1) Every person intending to---

(a) import any hazardous substance for release in an emergency; or

(b) import any new organism for release in an emergency; or

(c) release any new organism from containment in an emergency; or

(d) release any hazardous substance from containment in an emergency; or

(e) use any hazardous substance in an emergency in a manner which would otherwise contravene the provisions of this Act or any regulations---

shall, before importation or release or use, apply to the Authority for approval to import or release or use.

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

(a) information to identify the substance or organism; and

(b) information showing that the hazardous substance or new organism is necessary to deal with an emergency; and

(c) a proposed plan for dealing with the use of the substance or organism in the emergency; and

(d) all information relating to the effects of the substance or organism; and

(e) such other information as may be prescribed.

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

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

Section 47(2): words substituted, on 31 December 2000, by section 18 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

48 Determination of applications

(1) The Authority may approve or decline an application under section 47, but may only decline the application if it is satisfied that---

(a) the organism or substance is not necessary for use in the emergency; or

(b) if the application relates to a substance, the proposed plan does not adequately control the adverse effects of the substance; or

(c) if the application relates to a new organism, the proposed plan does not adequately control the adverse effects of the organism or any inseparable organism (including, but not limited to, adequate control of the organism if the organism is likely to establish an undesirable self-sustaining population, taking into account the ease of destroying such a population).

(2) When approving the substance or organism in accordance with subsection (1), the Authority shall impose the following controls:

(a) that the substance or organism only be released when an emergency has been declared under this Act or declared in accordance with the provisions of any other Act:

(b) that the organism or substance only be released for a specified type of emergency:

(c) that the organism or substance may only be released if the emergency is dealt with in accordance with a specified plan which includes:

(i) the measures which must be taken to avoid, remedy, or mitigate any actual or potential adverse effects from the use of that substance or organism:

(ii) the requirements for the disposal of the hazardous substance

and any waste products:

(iii) the requirements for the eradication or control of any new organism.

(3) The Authority shall give its decision in writing, including reasons for the decision, give written notice of the decision to the applicant, and publicly notify it.

49 Exemptions from provisions of Act in emergencies

Subject to sections 49A to 50, nothing in this Act shall apply to any hazardous substance or new organism required for use in an emergency where---

(a) the emergency; or

(b) the use of the substance or organism in the emergency---

was not foreseeable.

Section 49: words substituted, on 30 October 2003, by section 28 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Rapid assessment and approval of agricultural compounds and medicines in special emergencies

Heading: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49A Interpretation

In sections 49B to 49K,---

adverse event includes, but is not limited to, any of the events or emergencies specified in section 46(1)

agricultural compound means an agricultural compound (as defined in section 2(1) of the Agricultural Compounds and Veterinary Medicines Act 1997) that is or contains a hazardous substance or a new organism

government agency means---

(a) a department specified in Schedule 1 of the State Sector Act 1988:

(b) a Crown entity specified in Schedule 4 of the Public Finance Act 1989

interested government agency means a government agency that, in the opinion of the Authority, is likely to have an interest in the approval of an agricultural compound or medicine in a special emergency

medicine means a medicine (as defined in section 3 of the Medicines Act 1981) that is or contains a hazardous substance or new organism

responsible Minister means the Minister who, under the authority of any

warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of---

- (a) this Act; or
- (b) the Agricultural Compounds and Veterinary Medicines Act 1997; or
- (c) the Biosecurity Act 1993; or
- (d) the Conservation Act 1987; or
- (e) the Fisheries Act 1996; or
- (f) the Health Act 1956; or
- (g) the Medicines Act 1981

special emergency means a special emergency declared under section 49B.

Section 49A: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49B Declaration of special emergency

(1) A responsible Minister may declare an adverse event to be a special emergency if the adverse event is a matter that comes within the Minister's portfolio.

(2) A declaration of a special emergency---

(a) must be notified or published in the Gazette as soon as practicable after the special emergency is declared; and

(b) is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.

(3) A special emergency expires---

(a) on the close of the date (if any) specified in the declaration as the expiry date; or

(b) if paragraph (a) does not apply, then on the close of a date specified by notice in the Gazette as the date of expiry of the emergency.

Section 49B: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49C Application of sections 49D to 49K

Sections 49D to 49K apply to a special emergency whether or not---

(a) the special emergency is foreseeable; and

(b) the importation, release, or use of an agricultural compound or medicine in the special emergency is foreseeable.

Section 49C: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49D Application for approval to use agricultural compound or medicine in special emergency

(1) A person who does not have approval under this Act to do a thing specified in subsection (2) may apply to the Authority to do the thing in a special emergency.

(2) The things are---

(a) import any agricultural compound or medicine for release; or

(b) manufacture an agricultural compound or medicine that is a hazardous substance otherwise in containment; or

(c) release any agricultural compound or medicine from containment; or

(d) use any agricultural compound or medicine in a manner that would contravene this Act or any regulations.

(3) For the purposes of subsection (1),---

(a) it does not matter whether the application is made or approved before or after the special emergency has been declared:

(b) the applicant may import, release, or use the agricultural compound or medicine before the declaration of the special emergency has been notified or published in the Gazette.

Section 49D: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49E Contents of application

(1) An application under section 49D must be in the approved form and must include information required by the Authority that, having regard to the particular circumstances of the special emergency, the applicant can provide to the Authority in the time available.

(2) Without limiting subsection (1), the Authority may require the following information:

(a) information to identify the agricultural compound or medicine and the hazardous substance or new organism that is or is contained in the agricultural compound or medicine; and

(b) information showing that the agricultural compound or medicine is necessary to deal with the special emergency; and

(c) a proposed plan for dealing with the use of the agricultural compound or medicine in the special emergency; and

(d) any reports by experts available from---

(i) the applicant:

(ii) any overseas regulatory agencies; and

(e) written confirmation by the applicant that the agricultural compound or medicine satisfies all relevant manufacturing practices and standards; and

(f) information on whether the agricultural compound or medicine has been approved for use in an overseas country; and

(g) information on whether approval for use of the agricultural compound or medicine has been declined in an overseas country; and

(h) information on the nature of the special emergency; and

(i) information on the nature of the agricultural compound or medicine; and

(j) information on the labelling of the agricultural compound or medicine; and

(k) all other prescribed information (if any).

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

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

Section 49E: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49F Determination of applications

(1) As soon as practicable after receiving an application under section 49D, the Authority must complete a rapid assessment of the application and decide whether to approve or decline the application.

(2) In determining whether to approve or decline the application, the Authority must---

(a) consult, and have particular regard to the views of, the Department of Conservation; and

(b) consult and consider the views of any other interested government agency; and

(c) consider all the information on the matters specified in section 49E that, having regard to the particular circumstances of the special emergency, the applicant can provide to the Authority in the time available.

(3) The Authority may decline the application only if it is satisfied that---

(a) the agricultural compound or medicine is not necessary for use in the special emergency; or

(b) if the application relates to a hazardous substance, the proposed plan does not adequately control the adverse effects of the hazardous substance; or

(c) if the application relates to a new organism, the proposed plan does not adequately control the adverse effects of the new organism or any inseparable organism (including, but not limited to, adequate control of the organism if the organism is likely to establish an undesirable self-sustaining population, taking into account the ease of destroying such a population).

Section 49F: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49G Controls attaching to approval of application

If the Authority approves an application under section 49F, the Authority must impose the control that the agricultural compound or medicine may be released only if the special emergency is dealt with in accordance with the specified plan, and the plan includes---

(a) the measures that must be taken to avoid, remedy, or mitigate any actual or potential adverse effects from the use of the agricultural compound or medicine:

(b) the requirements for the disposal of the agricultural compound or medicine and any waste products:

(c) the requirements for the eradication or control of any new organism.
Section 49G: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49H Notification or publication of approval of application

(1) An approval under section 49F and the reasons for the approval must be notified or published in the Gazette.

(2) The notified or published approval---

(a) must describe the special emergency to which it relates; and

(b) must specify where a copy of the plan for dealing with the use of the agricultural compound or medicine in the special emergency may be inspected or obtained; but

(c) need not specify what the approval has been granted for.

(3) If the approval is only notified in the Gazette,---

(a) the notice must specify where a copy of the approval may be inspected or obtained; and

(b) the Authority must make copies of the approval available for inspection free of charge, and for purchase at a reasonable cost, at the head office of the Authority and at any other places that the Authority determines as necessary or appropriate.

Section 49H: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49I Effect of approval of release

(1) An approval for the importation, release, or use of an agricultural compound or medicine in a special emergency is limited to the importation, release, or use of the agricultural compound or medicine in the special emergency.

(2) If an approval relates to a new organism, the organism does not cease to be a new organism because it is released in accordance with the approval.

Section 49I: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49J Duration of approval

An approval under section 49F takes effect on the day specified in the approval, and expires on the earlier of---

(a) the date of expiry (if any) of the special emergency specified by a responsible Minister in---

(i) the declaration declaring the special emergency; or

(ii) a later declaration declaring that the special emergency has ceased; or

(b) the date of expiry (if any) specified by the Authority in the approval, which must not be later than the date of expiry of the special emergency; or

(c) if paragraph (a) or paragraph (b) does not apply, 2 years after the date on which the approval is granted.

Section 49J: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

49K Consequences of expiry of approval

On the expiry of an approval under section 49F that relates to a hazardous substance or new organism, the hazardous substance or new organism must be disposed of unless, before the expiry of the approval, the applicant has, under any other provision of this Act, been granted an approval.

Section 49K: inserted, on 30 October 2003, by section 29 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Prohibited list organisms

50 Prohibited organisms

(1) The importation or release or development of any organism specified in Schedule 2 is prohibited.

(2) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend Schedule 2 to---

(a) add a new organism that the Authority has, under subsection (3), recommended to the Minister be included in the schedule:

(b) add a new organism, or group or groups of new organisms, that have adverse effects on the health and safety of people or the environment:

(c) remove an organism or group of organisms, but only if the organism was inserted by Order in Council.

(2A) Subsection (2) applies subject to section 141.

(2B) An organism in Schedule 2 that is prescribed as not a new organism in regulations made under section 140(1)(ba) is to be treated as if it had been removed from that schedule.

(3) The Authority may, after declining any application made under this Act in relation to an organism, recommend to the Minister that an Order in Council be made to include the organism in Schedule 2, where the Authority is satisfied that---

(a) the organism is likely to have any of the effects described in section 36; and

(b) any likely adverse effects which may occur should the organism escape from containment would outweigh any likely beneficial effects of allowing the organism to be imported into containment.

(4) The Authority, when making a recommendation under subsection (3), may advise the Minister that a group of organisms should be included in Schedule 2 if it is difficult for persons to distinguish between high-risk and low-risk members of that group.

(5) Every Order in Council made under this section shall be deemed to be a regulation for the purposes of the Regulations (Disallowance) Act 1989.

Section 50(1): expression substituted, on 30 October 2003, by section 30(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 50(2): substituted, on 30 October 2003, by section 30(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 50(2A): inserted, on 30 October 2003, by section 30(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 50(2B): inserted, on 30 October 2003, by section 30(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 50(3): expression substituted, on 30 October 2003, by section 30(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 50(4): expression substituted, on 30 October 2003, by section 30(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Transshipment

51 Transshipment of substances and organisms

(1) Nothing in this Act shall apply to any hazardous substance or new organism transhipped through New Zealand where any person has---

(a) received approval from the Authority to tranship the hazardous substances or new organism; and

(b) complied with any controls that the Authority has imposed on the transshipment.

(2) The Authority---

(a) shall decline approval to tranship any organism specified in Schedule 2:

(b) may, within 10 working days after receipt of the application---

(i) decline approval to tranship any hazardous substance or new organism if the Authority considers that the substance or organism cannot be adequately contained so as to prevent the environment from being exposed to the substance or organism or any adverse effects of the substance or organism; or

(ii) approve the transshipment of any hazardous substance or new organism with such controls as the Authority thinks fit.

Section 51(2)(a): expression substituted, on 30 October 2003, by section 31 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Procedure for assessment

52 Applicant may be required to provide further information

(1) Where the Authority considers that an applicant is able to provide further relevant information, the Authority may, by written notice given to the applicant not later than 10 working days after the receipt of the application, require the applicant to supply such further information relating to the application as is specified in the notice.

(2) Where the applicant fails to comply with any request made in accordance with subsection (1) within 1 year after the date of the request, the application shall lapse.

53 Applications required to be publicly notified

(1) The following applications shall be publicly notified by the Authority:

(a) an application, under section 28, to import for release or manufacture for release any hazardous substance, if the application has not been approved under section 28A:

(ab) an application under section 38A for a conditional release approval for a new organism:

(b) an application, under section 34, to import for release any new organism, if the application has not been approved under section 35 or section 38I:

(c) an application, under section 34, to release any new organism from containment, if the application has not been approved under section 38I:

(d) an application, under section 40, to field test a genetically modified organism:

(e) an application under section 47 to import, release, or use a hazardous substance or a new organism in an emergency.

(2) The Authority may, if it considers that there is likely to be significant public interest, publicly notify any application under section 40 to---

(a) import into containment any new organism or develop any new organism (other than a genetically modified organism) in containment; or

(b) develop any genetically modified organism in containment, if that application has not been approved in accordance with section 42 or section 42A or section 42B.

(3) The public notice shall state---

(a) that any person may make a written submission on the application; and

(b) a closing date for receipt of submissions by the Authority; and

(c) the place where the application and accompanying information may be viewed, and the address for service of the Authority and the applicant unless that information has been withheld---

(i) in accordance with the Official Information Act 1982; or

(ii) in accordance with this Act.

(4) The Authority shall, upon receipt of the application, notify---

(a) the Minister; and

(b) any department listed in Schedule 1 of the State Sector Act 1988 and any Crown entity which, in the opinion of the Authority, is likely to have an interest in the application; and

(c) if the application is an application for approval of a new

organism,---

(i) the Department of Conservation; and

(ii) any local authority (within the meaning of the Local Government Act 2002) if, in the opinion of the Authority, the local authority is likely to have an interest in the application.

Section 53(1)(a): words added, on 31 December 2000, by section 19(1) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 53(1)(ab): inserted, on 30 October 2003, by section 32(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 53(1)(b): words added, on 30 October 2003, by section 32(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 53(1)(c): words added, on 30 October 2003, by section 32(3) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 53(2): substituted, on 31 December 2000, by section 19(2) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 53(2)(b): words added, on 30 October 2003, by section 32(4) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 53(3)(b): words omitted, on 7 May 1999, by section 5 of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 53(3)(c)(ii): words omitted, on 7 May 1999, by section 15(b) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 53(4)(b): words omitted, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

Section 53(4)(c)(ii): substituted, on 30 October 2003, by section 32(5) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

53A Method of public notification

(1) The Authority may, if it thinks fit, determine a method of public notification of the applications referred to in section 53.

(2) The method must, in the Authority's opinion, be a means of providing effective public notification at reasonable cost.

(3) Before determining a method of public notification under subsection (1), the Authority must---

(a) publicly notify the method it proposes to determine; and

(b) allow the period of time that the Authority thinks fit for any person who may be affected by the proposed method to comment in writing to the Authority on whether the proposed method is reasonable; and

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

(4) The Authority must, as soon as practicable after determining a method of public notification in accordance with this section, publicly notify the method in accordance with paragraph (b) of the definition of public notice in section 2(1).

Section 53A: inserted, on 31 December 2000, by section 20 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

54 Submission on application

(1) Any person may make a written submission on any publicly notified application to the Authority.

(2) The submission---

(a) shall state the reasons for making the submission;

(b) may state any decision sought; and

(c) shall state whether the person making the submission wishes to be heard.

(3) The Authority shall forward a copy of every submission to the applicant as soon as reasonably practicable after receipt of it by the Authority.

55 Information held on behalf of applicant

(1) Where any person---

(a) supplies any information to the Authority; and

(b) the information is likely to relate to an application for approval;
and

(c) the relevant application has not yet been lodged with the Authority,---

the information shall be held by the Authority on behalf of that person; and the provisions of the Official Information Act 1982 shall not apply to that information until the relevant application has been received by the Authority.

(2) Where any information supplied under subsection (1) is held by the Authority on behalf of any person, that information shall be returned upon request.

(3) Where---

(a) any information is held by the Authority relating to any application made under this Act in respect of a hazardous substance or new organism; and

(b) the substance or organism that is the subject of the application is also the subject of an innovative medicine application as defined in section 23A of the Medicines Act 1981; and

(c) that information includes trade secrets or information that has commercial value that would be, or would be likely to be, diminished by disclosure,---

the provisions of sections 23A to 23C of the Medicines Act 1981, with the necessary modifications, shall apply to that information as if the information were confidential supporting information as defined in section 23A of that Act.

(4) The provisions of sections 23A to 23C of the Medicines Act 1981, with the necessary modifications, shall also apply to the Authority in respect of the information referred to in subsection (3) as if the Authority were the Minister of Health, and as if references in those sections to applications were references to applications in respect of hazardous substances or new organisms; but---

(a) the protected period (as defined in section 23A of the Medicines Act 1981) shall be the same period for which the information is protected under the Medicines Act 1981; and

(b) the Authority may disclose the information to any prescribed person or organisation or prescribed class of persons or organisations; and

(c) the Authority shall provide a summary of the effects of any substance or organism in respect of which subsection (3) applies where an application for approval is required to be publicly notified in accordance with section 53.

(4A) Where---

(a) any information is held by the Authority relating to any application made under this Act in respect of a hazardous or new organism; and

(b) the substance or organism that is the subject of the application is also the subject of an innovative agricultural compound application as defined in Part 6 of the Agricultural Compounds and Veterinary Medicines Act 1997; and

(c) that information includes trade secrets or information that has commercial value that would be, or would be likely to be, diminished by disclosure,---

the provisions of Part 6 of the Agricultural Compounds and Veterinary Medicines Act 1997, with the necessary modifications, apply to that information as if the information were confidential supporting information as defined in that Part of that Act.

(4B) The provisions of Part 6 of the Agricultural Compounds and Veterinary Medicines Act 1997, with the necessary modifications, apply to the Authority in respect of the information referred to in subsection (4A) as if the Authority were the Director-General, and as if references in those sections to applications were references to applications in respect of hazardous substances or new organisms; but---

(a) the protected period (as defined in Part 6 of the Agricultural Compounds and Veterinary Medicines Act 1997) is the same period for which the

information is protected under the Agricultural Compounds and Veterinary Medicines Act 1997; and

(b) the Authority may disclose the information to any prescribed person or organisation or prescribed class of persons or organisations; and

(c) the Authority must provide a summary of the effects of any substance or organism in respect of which subsection (4A) applies where an application for approval is required to be publicly notified in accordance with section 53.

(5) Repealed.

(6) Repealed.

(7) The Governor-General may, from time to time, by Order in Council, make regulations prescribing persons or organisations or classes of persons or organisations for the purposes of subsections (4)(b) and (4B)(b).

Section 55(3)(a): substituted, on 30 October 2003, by section 33(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 55(3)(b): words substituted, on 30 October 2003, by section 33(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 55(4): words inserted, on 30 October 2003, by section 33(3)(a) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 55(4)(c): words inserted, on 30 October 2003, by section 33(3)(b) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 55(4A): inserted, on 2 July 2001, by section 85 of the Agricultural Compounds and Veterinary Medicines Act 1997 (1997 No 87).

Section 55(4A): expression substituted, on 3 June 1998, by section 2 of the Agricultural Compounds and Veterinary Medicines Amendment Act 1998 (1998 No 25).

Section 55(4A)(a): substituted, on 30 October 2003, by section 33(4) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 55(4A)(b): words substituted, on 30 October 2003, by section 33(5) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 55(4A)(b): expression substituted, on 3 June 1998, by section 2 of the Agricultural Compounds and Veterinary Medicines Amendment Act 1998 (1998 No 25).

Section 55(4B): inserted, on 2 July 2001, by section 85 of the Agricultural Compounds and Veterinary Medicines Act 1997 (1997 No 87).

Section 55(4B): words inserted, on 30 October 2003, by section 33(6)(a) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 55(4B): expression substituted, on 3 June 1998, by section 2 of the Agricultural Compounds and Veterinary Medicines Amendment Act 1998 (1998 No 25).

Section 55(4B)(a): expression substituted, on 3 June 1998, by section 2 of the

Agricultural Compounds and Veterinary Medicines Amendment Act 1998 (1998 No 25).

Section 55(4B)(c): words inserted, on 30 October 2003, by section 33(6)(b) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 55(5): repealed, on 2 July 2001, by section 85 of the Agricultural Compounds and Veterinary Medicines Act 1997 (1997 No 87).

Section 55(6): repealed, on 2 July 2001, by section 85 of the Agricultural Compounds and Veterinary Medicines Act 1997 (1997 No 87).

Section 55(7): expression substituted, on 30 October 2003, by section 33(7) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

56 Consideration of information withheld under Official Information Act 1982

Any information withheld from any person in accordance with section 9(2)(b) of the Official Information Act 1982 may be considered by the Authority in reaching a decision under this Act.

57 Authority to withhold information

(1) Where, in the Authority's opinion, any information which has been supplied to the Authority in respect of any application may be able to be withheld under section 9(2)(b) of the Official Information Act 1982, that information shall not be released to any person when any application is publicly notified.

(2) Where---

(a) the Authority receives a request to release any information held by the Authority under the Official Information Act 1982; and

(b) the information to which the request relates,---

(i) in the Authority's opinion, may be able to be withheld under section 9(2)(b) of that Act; or

(ii) has been classified as commercially sensitive by the person who gave the information to the Authority,---

the Authority shall make all reasonable efforts to contact and notify immediately the person who gave the information to the Authority that a request to release the information has been received.

(3) Where a person receives notice from the Authority under subsection (2), that person shall, within 10 working days of receipt of the notice, respond to the Authority stating whether that person believes that the information should be withheld under section 9(2)(b) of the Official Information Act 1982 and give reasons for that person's belief.

(4) The Authority may release the information or withhold the information in accordance with the Official Information Act 1982 if---

(a) the Authority has complied with subsection (2); and

(b) the time limit specified in subsection (3) has expired.

Section 57(2): words substituted, on 30 October 2003, by section 34(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 57(4): substituted, on 30 October 2003, by section 34(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

58 Further information

(1) The Authority---

(a) may commission a report or seek advice from any person on any matters raised in relation to the application, including a review of any information provided by the applicant:

(b) may obtain any existing relevant information on the substance or organism which is the subject of the application from any source:

(c) shall consult with all departments or Crown entities notified of the application in accordance with section 53(4) and, where 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.

(1A) Any report, advice, or other information obtained under subsection (1) may be considered at any hearing conducted by the Authority.

(2) Where the Authority obtains further information under subsection (1), the Authority, at least 10 working days before commencement of the hearing or consideration, as the case may be, of the application, shall notify the applicant and every person who made a submission that the information is available for inspection, unless that information has been withheld in accordance with section 9(2)(b) of the Official Information Act 1982.

(3) Where information is requested in accordance with subsection (1), the Authority may postpone the hearing or consideration of the application until the information has been received.

Section 58(1)(c): words inserted, on 30 October 2003, by section 35 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 58(1A): inserted, on 31 December 2000, by section 21(1) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 58(2): expression substituted, on 31 December 2000, by section 21(2) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

59 Time limits and waivers

(1) The Authority shall,---

(a) where public notification of an application is required by section 53, publicly notify that application within 10 working days of receipt unless

paragraph (b) applies to that application:

(b) if any of sections 28A, 35, 38I, 42, 42A, or 42B apply to the application,---

(i) make a rapid assessment of the application within 10 working days after receipt of the application; and

(ii) if the application is not approved under one of those sections, publicly notify the application, if required under this Act, within 10 working days of the Authority's decision:

(c) allow 30 working days from the date of public notification for the receipt of submissions:

(d) fix a date for commencement of the hearing or (where there is no hearing) for consideration of the application, being not more than 30 working days after the receipt of the application or the closing date for submissions, whichever is the later:

(e) give the applicant at least 10 working days' notice of the commencement date and the time and place of the hearing or consideration of the application:

(f) give every person who has made a submission on the application and who has stated his or her wish to be heard, at least 10 working days' notice of the commencement date and the time and place of the hearing.

(2) The Authority shall publicly notify its decision as soon as reasonably practicable but not later than 30 working days after the conclusion of the hearing or, where there is no hearing, the consideration of the application.

(3) A person may apply to the Authority to---

(a) waive a requirement of this Act or a regulation concerning---

(i) the time within which any action shall be carried out; or

(ii) the information that shall be supplied; or

(b) give a direction concerning---

(i) the time within which any action shall be carried out; or

(ii) the terms, including terms as to adjournment, costs, or other matters, on which any information shall be supplied.

(4) The Authority shall not extend or reduce any time period or grant an application under this section to waive a requirement as to the time within which any action shall be carried out unless it is satisfied that---

(a) the applicant and the persons making submissions consent to that waiver; or

(b) any of those parties who have not so consented will not be unduly

prejudiced.

(5) Subject to subsection (4), the Authority may at any time extend or reduce any time limit under this Act whether or not---

(a) an application has been made under this section; or

(b) that time limit has expired,---

but in all cases must ensure the matter is carried out as promptly as is reasonable in the circumstances.

Section 59(1)(a): words substituted, on 30 October 2003, by section 36(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 59(1)(b): substituted, on 30 October 2003, by section 36(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 59(1)(d): expression substituted, on 31 December 2000, by section 22(2) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 59(2): words substituted, on 30 October 2003, by section 36(3) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 59(4): words inserted, on 31 December 2000, by section 22(3) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 59(5): words inserted, on 31 December 2000, by section 22(4) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

60 Obligation to hold hearing

A hearing of any application need not be held unless---

(a) the Authority considers that a hearing is necessary; or

(b) the applicant has made a written request to the Authority for a hearing; or

(c) a person who has made a submission stated in that submission that he or she wishes to be heard and has not subsequently advised that he or she does not wish to be heard.

61 Provisions relating to hearings

(1) The Authority shall consider and decide any application, other than an application which is the subject of a Ministerial direction under section 68.

(2) The Authority shall keep a record of all proceedings before it.

(3) For the purpose of considering any application, the Authority shall have the same powers as are conferred on a Commission of Inquiry by the Commissions of Inquiry Act 1908; and sections 4, 4B, 4D, 6, 7, 9, 11, and 12 of that Act shall apply accordingly.

(4) The members of the Authority shall have, in relation to any such consideration and any decision on any matter, the same immunities and privileges as are possessed by a District Court Judge.

(4A) Subsection (4) applies despite section 121 of the Crown Entities Act 2004.

(5) Every summons to a witness to appear at a hearing shall be in an approved form and be signed by the person chairing the hearing.

(6) All allowances for a witness shall be paid by the party on whose behalf the witness is called.

(7) The Authority shall hold any hearing of a publicly notified application in public and shall establish a procedure that is appropriate and fair in the circumstances and may---

(a) permit cross-examination; or

(b) permit questions in clarification; or

(c) permit only the members of the Authority to question any person.

(8) At the hearing the applicant and any person who made submissions and stated that they wished to be heard may speak (either personally or through a representative) and call evidence.

(9) Where any person who has stated that he or she wished to be heard fails to appear at the hearing, the Authority may nevertheless proceed with the hearing if it considers it fair and reasonable to do so.

Section 61(4A): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 61(5): words substituted, on 31 December 2000, by section 23 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 61(7): words substituted, on 7 May 1999, by section 6 of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

62 Grounds for reassessment of a substance or organism

(1) (a) any person; or

(b) the chief executive of the Authority---

may at any time request the Authority to decide whether there are grounds for reassessing any new organism in containment, any conditionally released new organism, any qualifying organism released with controls, or any hazardous substance where that organism or substance has previously been assessed by the Authority or where Parts 11 to 16 apply to that substance or organism.

(2) Where any request has been made under subsection (1), the Authority may decide that grounds exist to reassess that substance or organism after taking into account that---

(a) significant new information relating to the effects of the substance or the organism has become available; or

(b) another substance with similar or improved beneficial effects and reduced adverse effects has become available; or

(c) information showing a significant change of use, or a significant change in the quantity manufactured, imported, or developed has become available.

(3) The Authority shall give its decision under subsection (2) in writing, with reasons, to the applicant.

(4) For the purposes of subsection (1), assessed by the Authority means a decision under any of sections 28A, 29, 32, 38C, 38I, 42, 42A, 42B, 45 or 48 or a decision by the Minister under section 73, or a deemed assessment under section 160A.

Section 62(1): words inserted, on 30 October 2003, by section 37(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 62(4): expression substituted, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 62(4): expression substituted, on 30 October 2003, by section 37(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 62(4): expression inserted, on 2 July 2001, by section 24 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 62(4): expression substituted, on 7 May 1999, by section 15(c) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

63 Reassessment

(1) Any person or the chief executive of the Authority may request the Authority to proceed with a reassessment following a decision under section 62(3).

(2) A reassessment under this section shall be deemed to be an application and shall be publicly notified in accordance with section 53 and---

(a) section 29 and sections 54 to 61 shall apply with all necessary modifications to a reassessment of a hazardous substance approved under section 28A or section 29:

(b) sections 30 and 32 shall apply with all necessary modifications to a reassessment of a hazardous substance approved under section 32:

(c) sections 39 to 45 and sections 54 to 61 shall apply with all necessary modifications to a reassessment of a new organism in containment approved under section 45:

(ca) sections 38A to 38D and 54 to 61 apply with all necessary modifications to a reassessment of a conditional release approval:

(cb) sections 38I to 38L and 54 to 58 apply with all necessary modifications to a reassessment of a qualifying organism released with controls:

(d) sections 47 and 48 and sections 54 to 61 shall apply with all necessary modifications to a reassessment of a hazardous substance or new organism for use in an emergency approved under section 48.

(3) However, a reassessment of a qualifying organism released with controls is not required to be publicly notified in accordance with section 53.

Section 63(2)(a): words inserted, on 2 July 2001, by section 25 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 63(2)(ca): inserted, on 30 October 2003, by section 38(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 63(2)(cb): inserted, on 30 October 2003, by section 38(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 63(3): added, on 30 October 2003, by section 38(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

64 Suspension of approvals during reassessment

Where a decision to reassess any hazardous substance has been publicly notified under section 63(2), and the Authority has reasonable cause to believe that there is significant actual or imminent danger to human health or safety or the environment from the continued use of the substance, the Authority, by notice in the Gazette, may direct that any further use of the substance is prohibited until such time as a decision has been made following the reassessment.

65 No compensation following reassessment

Where any hazardous substance or new organism is reassessed in accordance with section 63, no compensation shall be payable to any person for any loss where the Authority---

(a) declines to allow any further importation or manufacture of that substance; or

(b) declines to approve the release of any new organism from containment; or

(c) declines to approve any further importation, field testing, or development of any new organism in containment; or

(d) suspends any approval in accordance with section 64; or

(e) varies the controls on any substance or organism.

66 Requirement for disposing of substances

(1) Where any hazardous substance has been reassessed in accordance with section 63 and the Authority has declined to allow any further importation or manufacture of that substance, the Authority may issue a direction, by notice in the Gazette, prohibiting the use of that substance and requiring that substance to be disposed of, at the owner's expense, in accordance with the controls placed on it by the Authority.

(2) Where the use of any hazardous substance is prohibited in accordance with subsection (1), the Authority may, if it thinks fit, add to or vary the controls on disposal of that substance to control any additional adverse effects of disposal of that substance in accordance with subsection (1), disclosed during reassessment.

66A Disposal of persistent organic pollutants

If Schedule 2A does not specify a use for a persistent organic pollutant or a specified use has expired,---

(a) no person may use the substance; and

(b) the Authority may issue a direction, by notice in the Gazette, requiring the environmentally sound disposal of the persistent organic pollutant.

Section 66A: inserted, on 23 December 2004, by section 11 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

67 Authority to direct disposal of new organisms

Following any decision to---

(a) decline approval to release any new organism from containment; or

(b) decline approval to import, field test, or develop any new organism,---

the Authority may direct, the owner of any such organism already in New Zealand to dispose of the organism at the owner's expense in accordance with the terms of the approval under which the organism was imported, field tested, or developed.

67A Minor or technical amendments to approvals

The Authority may, of its own motion, amend any approval given by it under this Part if it considers that the alteration is minor in effect or corrects a minor or technical error.

Section 67A: inserted, on 31 December 2000, by section 26 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Minister's call-in powers

68 Minister's power to call in applications with significant effects

(1) The Minister may direct that he or she will decide an application under this Act if the Minister considers that the decision on the application will have---

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

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

(2) The direction shall include the Minister's reasons for giving it.

(2A) Sections 114 and 115 of the Crown Entities Act 2004 do not apply to a direction under subsection (1).

(2B) This section applies despite section 113 of the Crown Entities Act 2004.

(3) Where the application is for approval to release from containment any new organism, the Minister, in the Minister's discretion, may include in the direction given under subsection (1) a statement specifying, in the circumstances of the particular case, what is or is not significant for the purposes of applying section 36 in respect of the application.

Section 68(1): substituted, on 30 October 2003, by section 39 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 68(2A): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 68(2B): inserted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

69 Notification of Minister's direction

(1) A direction by the Minister under section 68 is not effective in respect of any application unless the direction is notified in the Gazette not later than 30 working days after the date on which the Authority gives public notice of the application.

(2) The Minister shall forward a copy of the Gazette notice under subsection (1) to the Authority; and the Authority shall inquire into and report on the application concerned under sections 71 and 72.

Section 69(1): words substituted, on 30 October 2003, by section 40 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

70 Minister may appoint persons

Where the Minister directs that the Minister will decide any application in accordance with section 68, the Minister may appoint any person or persons with relevant knowledge or experience to sit with the Authority and exercise the power of a member of the Authority under sections 71 and 72.

71 Conduct of inquiry by Authority

(1) On receipt of a notice under section 69, the Authority shall inquire into any application for an approval to which a direction under section 68 applies.

(2) The Authority may require further information under section 52 in respect of any application to which such a direction applies.

(3) Sections 53 to 61 apply, with all necessary modifications, in respect of such an inquiry as if the conduct of the inquiry were the hearing of an application.

(4) The Authority---

(a) must hold an inquiry in public; and

(b) must consider---

(i) all matters under this Act relevant to the application; and

(ii) the Minister's reasons for giving the direction under section 68.

Section 71(4): substituted, on 30 October 2003, by section 41 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

72 Authority to report to Minister

(1) On completion of an inquiry under section 71, the Authority shall, as soon as practicable, submit to the Minister a written report (including recommendations and reasons) on the application referred to it by the Minister.

(2) After receiving a report from the Authority, the Minister shall ensure that---

(a) a copy of the report is sent to the applicant for any approval to which the report relates; and

(b) a copy of the report is sent to every person who made a submission.

73 Minister to decide application and notify decision

(1) When considering his or her decision on the application, the Minister shall have regard to---

(a) the report and recommendations of the Authority; and

(b) the reasons for calling in the application.

(2) Within 20 working days after receiving a report from the Authority, the Minister shall give his or her decision in writing, including reasons for the decision, give written notice of the decision to the applicant and every person who made a submission, and publicly notify the decision.

(3) Every decision by the Minister under this section may include such controls as may be imposed by the Authority under this Act, and shall have the

same effect as a decision by the Authority.

Section 73(3): words omitted, on 30 October 2003, by section 42 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Part 5A
Restrictions on approving certain applications
(Repealed)

Part 5A: repealed, on 30 October 2003, by section 43(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

73A Interpretation

Repealed.

Section 73A: repealed, on 30 October 2003, by section 43(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

73B Application

Repealed.

Section 73B: repealed, on 30 October 2003, by section 43(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

73C Authority must not consider or approve certain applications during restricted period

Repealed.

Section 73C: repealed, on 30 October 2003, by section 43(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

73D Additional information required for certain applications

Repealed.

Section 73D: repealed, on 30 October 2003, by section 43(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

73E Additional matters Authority must consider for certain applications

Repealed.

Section 73E: repealed, on 30 October 2003, by section 43(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

73F No compensation

Repealed.

Section 73F: repealed, on 30 October 2003, by section 43(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

73G Expiry

Repealed.

Section 73G: repealed, on 30 October 2003, by section 43(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Part 6

Controls

Hazard classification system

74 Establishment of hazard classification system

Subject to section 141, the Governor-General may, from time to time, by Order in Council make regulations establishing a hazard classification system by---

(a) prescribing for each intrinsic hazardous substance property a number of degrees or types of hazard:

(b) prescribing, for each intrinsic hazardous substance property, a degree of hazard below which any substance is not considered hazardous.

75 Regulations prescribing hazard classification control

(1) Subject to section 141, the Governor-General may, from time to time, by Order in Council make regulations prescribing controls for each hazard classification for the following purposes:

(a) for substances with explosive properties:

(i) to reduce the likelihood of an unintended explosion:

(ii) to control the adverse effects likely to be caused by an explosion:

(b) for substances with flammable properties:

(i) to reduce the likelihood of an unintended fire or explosion:

(ii) to control the adverse effects of any fire or explosion:

(c) for substances with oxidising properties:

(i) to reduce the likelihood of any unintended release of chemical energy as an explosion or fire:

(ii) to control the adverse effects of any release of chemical energy as an explosion or fire:

(d) for substances with corrosive properties:

(i) to reduce the likelihood of any unintended corrosion:

(ii) to control the adverse effects of any corrosion:

(e) for substances with toxic properties:

(i) to reduce the likelihood of any unintended exposure to any such substances:

(ii) to control the adverse effects of any exposure to such substances:

(f) for substances with ecotoxic properties:

(i) to reduce the likelihood of unintended exposure to any such substance:

(ii) to control the adverse effects of any exposure to such substances:

(g) prescribing substances as substances which are not hazardous for the purpose of this Act.

(2) Any regulations made under this section may require any specified person to obtain a test certificate at any specified time certifying that any prescribed requirement has been met.

76 Requirements for containers, identification, disposal, emergencies, tracking, and fireworks

(1) Subject to section 141, the Governor-General may from time to time, by Order in Council, make regulations prescribing controls in respect of any hazard classifications for the following purposes:

(a) prescribing requirements for packages or containers for hazardous substances:

(b) prescribing requirements for specifying the identification, labelling, or advertising of hazardous substances:

(c) prescribing requirements for disposal of hazardous substances:

(d) prescribing requirements to manage any emergency involving a hazardous substance:

(e) prescribing systems for tracking hazardous substances which may include requirements that---

(i) the whereabouts of the substance be recorded at all times or from time to time:

(ii) the quantity of the substance be recorded:

(iii) a person be identified as being in charge of the substance:

(iv) any person handling the substance holds prescribed qualifications:

(f) prescribing qualifications, including requirements that a person be a member of any specified professional body or organisation, for any person handling a hazardous substance.

(2) Any requirements prescribed in accordance with paragraph (a) or paragraph (b) or paragraph (c) of subsection (1) shall comply with any relevant requirements prescribed by regulations made under section 75.

(3) Any regulations made under this section may require any person to obtain a test certificate at any specified time certifying that any specified requirement has been met.

(4) Notwithstanding section 18(1) of the Building Act 2004, regulations may be made prescribing requirements for stationary containers which require a person to achieve performance criteria additional to or more restrictive in relation to any building work than the performance criteria specified in the building code as defined in section 7 of the Building Act 2004.

Section 76(4): expressions substituted, on 31 March 2005, pursuant to section 415(1) of the Building Act 2004 (2004 No 72).

77 Controls on hazardous substances

(1) Where the Authority has approved the importation or manufacture of any substance under section 28A or section 29, the Authority shall give that substance 1 or more hazard classifications in accordance with the intrinsic properties of that substance and the degree of hazard of that substance.

(2) The controls prescribed for each hazard classification shall attach to the substance, but may be varied,---

(a) from time to time by amendments to the regulations prescribing controls for the relevant hazard classification:

(b) at the time the substance is approved, in accordance with subsections (3), (4) and (5).

(2A) If regulations referred to in subsection (2)(a) are made, then, unless the Authority otherwise determines, the regulations do not affect any variations made by the Authority under subsections (3) to (5) before the commencement of the regulations.

(3) The Authority may substitute or add any controls prescribed for any classification,---

(a) where the adverse effects identified for a substance are greater than the adverse effects which would usually be associated with substances given that hazard classification; or

(b) where another substance with similar or improved beneficial effects and reduced adverse effects has become available and the availability of the substance should be restricted by the imposition of additional controls; or

(c) where the scientific and technical uncertainty in the available information is such that the adverse effects cannot be accurately identified.

(4) The Authority may substitute or delete any or all controls prescribed for any classification,---

(a) where the adverse effects identified for a substance are less than the adverse effects which would usually be associated with substances given that hazard classification; or

(b) where the benefits of any substance are such that the controls should be varied to retain the benefits and the variation would, in the opinion of the Authority, not significantly increase the adverse effect.

(5) Where any substance is given 2 or more hazard classifications, the Authority shall combine the prescribed controls and impose such of those controls as will control all of the adverse effects identified for the substance.

(6) Where any controls are varied or deleted in accordance with subsection (3) or subsection (4), the Authority shall ensure that the controls remain consistent over the whole lifecycle of the substance concerned.

(7) Any restrictions and prohibitions on the sale of fireworks prescribed under section 140(1)(r) shall be in addition to any controls placed on fireworks under this section to control their explosive properties.

Section 77(1): words inserted, on 2 July 2001, by section 27 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 77(2A): inserted, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

77A Authority's power to impose controls and vary specified controls

(1) The Authority may, at the time it approves a substance for any purpose under this Act, impose as controls under this section any obligations and restrictions that the Authority thinks fit.

(2) Without limiting anything in subsection (1), the Authority may,---

(a) in approving a substance, specify as a control under this section an obligation to obtain a permission under section 95A for general or particular use of the substance:

(b) in approving a substance, specify as a control under this section an obligation to obtain a licence under section 95B for possession of the substance.

(3) Obligations and restrictions imposed under this section are controls for the purposes of this Act, and such controls may---

(a) be additional to other specified controls; or

(b) vary other specified controls; or

(c) be in substitution for other specified controls; or

(d) combine other specified controls; or

(e) delete other specified controls.

(4) Before imposing a control under this section, the Authority must be satisfied that, against any other specified controls that apply to the substance,---

(a) the proposed control is more effective in terms of its effect on the management, use, and risks of the substance; or

(b) the proposed control is more cost-effective in terms of its effect on the management, use, and risks of the substance; or

(c) the proposed control is more likely to achieve its purpose.

(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.

Section 77A: inserted, on 24 March 2004, by section 5 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

78 Codes of practice

(1) The Authority may from time to time issue, amend, approve, or revoke any code of practice for hazardous substances for the purpose of implementing any requirement included in controls or in regulations in force under this Act.

(2) Every code of practice, and every amendment or revocation of a code of practice for hazardous substances, shall show the date on which it was issued.

(3) The Authority may issue, as a code of practice for hazardous substances, any code of practice approved under any other Act.

(4) The Authority may approve, as a code of practice for hazardous substances, any document prepared by any other person if that document is considered by the Authority as a suitable document for use as a code of practice for hazardous substances.

(5) A code of practice issued or approved under this Act that is also a code of practice approved under any other Act or a document prepared by another person, consists of the contents of that code or document as that code or document existed on the date that it was approved or issued as a code of practice under this Act.

(6) The Authority shall not---

(a) adopt with modification any documents previously approved by a Minister of the Crown (or by the Building Industry Authority established by section 10(1) of the Building Act 1991); or

(b) approve any amendment of any part of a code of practice that comprises a document approved by a Minister of the Crown (or by the Building Industry Authority) and later adopted by the Authority---

without the written consent of the relevant Minister or the Building Industry Authority.

Section 78(1): substituted, on 2 July 2001, by section 28 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 78(5): substituted, on 7 May 1999, by section 7 of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

79 Codes may be approved by Authority

(1) A code of practice for hazardous substances, an amendment to such a code, and a revocation of such a code, shall not have any force or effect until it has been approved by the Authority.

(2) Subject to subsection (3), the Authority shall not approve any code, or any amendment or revocation of a code, unless---

(a) not less than 20 working days has elapsed since the publication in the Gazette of a notice of the intention to apply for approval; and

(b) the Authority has consulted such persons as will be affected by the code or amendment or revocation or who have advised the Authority in writing that they wish to be consulted, or representatives of those persons, and they have had the opportunity to consider its possible effects and to comment on those effects to the Authority; and

(c) the Authority has considered any comments made to it concerning those effects.

(3) The Authority may approve a code of practice for hazardous substances or any amendment or revocation of that code without complying with the requirements of subsection (2)(a) or (b), if it is satisfied that sufficient consultation has already taken place in respect of the matters in the code, or amendment, or revocation.

(4) Repealed.

(5) When the Authority approves a code of practice for hazardous substances or an amendment or revocation of that code, the Authority shall---

(a) publish a notice of the approval of the code of practice in the Gazette; and

(b) show the date of the approval of the code of practice on the code, amendment, or revocation and promulgate it in such manner as the Authority thinks fit.

Section 79(2)(b): words inserted, on 2 July 2001, by section 29(1) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 79(4): repealed, on 2 July 2001, by section 29(2) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

80 Availability of codes

(1) If the Authority approves a code of practice, the Authority must ensure that, so long as the code remains in force, copies of that code, and of all amendments to that code, are available---

(a) for inspection by members of the public free of charge; and

(b) for purchase by members of the public at a reasonable price.

(2) The notice of approval published in the Gazette pursuant to section 79 shall show, in relation to the code, or the amendment to a code to which it relates, a place or places at which copies of the code or, as the case requires, the amendment, are available for public inspection and purchase.

Section 80(1): substituted, on 2 July 2001, by section 30(1) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 80(2): words added, on 2 July 2001, by section 30(2) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

81 Proof of code

Without affecting any other method of proof, the production in any proceedings of a copy of any code of practice for hazardous substances, or amendment or revocation of such a code of practice, purporting to have been approved by the Authority, in the absence of evidence to the contrary, shall be sufficient proof that it has been issued in accordance with this Act.

Test certifiers

82 Issue of test certificates by test certifiers

(1) Where---

(a) any regulations made under this Act; or

(aa) any approval granted by the Authority under this Act; or

(b) any requirements imposed in accordance with Schedule 3,---

require any person to obtain a test certificate, that person shall obtain the test certificate from a test certifier who has been approved to issue such a test certificate in accordance with sections 83 and 84.

(2) A test certifier may, if he or she is authorised to issue a test certificate for any prescribed requirement and is satisfied on reasonable grounds that the prescribed requirement has been met, issue a test certificate.

(3) A test certifier shall not issue any test certificate in respect of any matter if the test certifier is or has been responsible for, or has a financial interest in, the design, planning or construction of anything relating to the

matter.

(4) Where any test certifier considers, on reasonable grounds that any matter does not comply with the relevant requirement, he or she shall---

(a) refuse to issue a test certificate; and

(b) notify the applicant, in writing, with reasons, of the refusal; and

(c) notify the appropriate enforcement agency unless the test certifier is satisfied that any potential adverse effect from failure to comply with the relevant requirements has been satisfactorily avoided.

Section 82(1)(aa): inserted, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

83 Applications for approval as test certifier

(1) Any person may apply to the Authority for approval as a test certifier.

(2) Every application shall be in the form specified or provided by the Authority and shall specify the requirements in respect of which the applicant wishes to be approved as a test certifier.

(3) Except as provided by subsection (4), each application shall include---

(a) information that will enable the Authority to decide whether or not the applicant has appropriate qualifications, sufficient knowledge of the relevant requirement, and appropriate equipment to test for the relevant requirements, and, if so,---

(i) the specific requirements in respect of which the applicant should be approved; and

(ii) any limitations which should be placed on the approval:

(b) where required by the Authority, evidence that a scheme of insurance, approved by the Authority, will apply in respect of any insurable civil liability of the applicant that might arise out of the issuing by the applicant of a test certificate under this Act or any regulations.

(4) In the case of an applicant who is or has been a test certifier and who is applying for continuation or renewal of approval in respect of the same requirements, the application need not be accompanied by the documentation required by subsection (3)(a), but instead shall be accompanied by---

(a) a list of any additional qualifications that the applicant has acquired since that person's previous application; and

(b) a request for any changes to any limitations imposed on the previous approval, with reasons for the request; and

(c) in the case of an application for renewal, reasons why the approval lapsed.

84 Processing applications for approval as test certifier

(1) The Authority may require the applicant for approval as a test certifier to provide further information in support of the application.

(2) If the applicant is unable to comply with any requirement of the Authority under subsection (1), the applicant shall inform the Authority of the reasons why the applicant is unable to comply.

(3) The application shall be considered by the Authority within 20 working days of receipt of all information required under subsection (1) or notification by the applicant under subsection (2) that he or she is unable to comply with a request for further information.

(4) The Authority shall notify the applicant not less than 10 days before any meeting at which it is intended to consider the application. The applicant may, and if the Authority so requires, the applicant shall, appear and be heard at that meeting of the Authority.

(5) After considering an application for approval as a test certifier the Authority shall grant the approval if it is satisfied---

(a) that the applicant has---

(i) the prescribed qualifications; and

(ii) sufficient knowledge of the relevant requirements; and

(iii) complied with any other prescribed conditions; and

(b) where required by the Authority, that a scheme of insurance approved by the Authority will apply in respect of any insurable civil liability of the applicant that might arise out of the issuing by the applicant of a test certificate under this Act or any regulations, except in respect of a test certificate issued by a territorial authority.

(6) If the Authority declines an application it shall notify the applicant in writing specifying the reasons.

(7) An approval expires on the earlier of the following dates:

(a) 5 years after the date on which it is given:

(b) the date of expiry (if any) specified by the Authority in the approval.

Section 84(7): substituted, on 2 July 2001, by section 31 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

85 Register of test certifiers

(1) The Authority shall establish and maintain a register of test certifiers.

(2) Whenever the Authority approves a person as a test certifier, it shall

enter on the register---

- (a) the date of approval; and
 - (b) the name and address of the person approved; and
 - (c) the specific requirements in respect of, or in connection with which, the person may issue test certificates; and
 - (d) any limitation on the matters in respect of which the person may issue test certificates; and
 - (e) the date of expiry of the approval; and
 - (f) such other matters relating to the approval as the Authority directs.
- (3) A test certificate purporting to be under the hand of a person duly authorised by the Authority to issue such a certificate shall, in the absence of proof to the contrary, and without proof of the signature appended to the certificate, be sufficient evidence of the matters specified in the certificate.
- (4) Every person shall have the right to inspect the register during the ordinary office hours of the Authority.

86 Complaints to Authority

- (1) If the Authority receives any complaint about, or has cause to query the conduct or ability of, a test certifier, the Authority may investigate the complaint or query and, if it considers the complaint or query to be justified, may amend or cancel the approval.
- (2) The Authority may, if it thinks fit, after the receipt of any complaint or query, suspend all or any part of the approval given under section 84 until the investigation under subsection (1) is complete.

Transferable permits

87 Establishment of transferable permit scheme

- (1) Subject to section 141, the Governor-General may from time to time, by Order in Council, make regulations establishing a transferable permit scheme for any hazardous substance or group of hazardous substances.
- (2) Regulations made under subsection (1) may include the following matters:
- (a) the amount of substance available for importation or manufacture in any specified period of time or a method for determining that amount:
 - (b) the method of allocating, reallocating, reducing, increasing, or cancelling any transferable permits:
 - (c) the period for which any transferable permit will be valid:
 - (d) any limitations upon the transfer of permits:

(e) any scheme monitoring requirements, including any reporting requirements imposed on holders of permits.

(3) Any method specified in accordance with subsection 2(b) shall first allocate transferable permits to persons importing or manufacturing the substance immediately prior to the establishment of the transferable permit scheme.

(4) Any method specified in accordance with subsection (2)(a) may provide for the amount of a substance to be reduced or increased over a specified period of time.

(5) Where any regulations made under this section specify a method for reducing the amount of substance available for importation or manufacture, no compensation shall be payable in respect of any such reduction.

88 Authority to recommend establishment

The Authority may recommend to the Minister that a transferable permit scheme be established, amended, or revoked for any hazardous substances or group of hazardous substances, in accordance with section 87, where the Authority is satisfied---

(a) that a reduction in the likely occurrence of adverse effects similar to that achieved by the controls attached to any substance in accordance with section 77 could be achieved by---

(i) any transferable permit scheme; or

(ii) any combination of a transferable permit scheme and controls prescribed in accordance with sections 75 and 76; and

(b) that such a scheme will be cost effective to implement, having regard to the costs associated with the transferable permit scheme, including the costs of monitoring and the costs of alternative methods of controls, and the benefits provided from the ability to transfer permits.

89 Transferable permit scheme and variation of controls

(1) Where any transferable permit scheme is established for any hazardous substance in accordance with section 87, the Authority may substitute or delete any controls attached to that substance if the combination of controls and transferable permit scheme reduce the likely adverse effects of that substance to a level similar to that achieved by the controls attached to that substance in accordance with section 77.

(2) Any substitution or deletion of controls on any substance in accordance with subsection (1) shall remain in force so long as the transferable permit scheme in place at the time of the substitution or deletion of controls remains the same.

90 Transfer of permits

(1) Any person who has been granted a transferable permit in accordance with any scheme established under section 87 may transfer that permit or any part of

it to any other person.

(2) The transferor, within 20 working days after making any such transfer, shall notify the Authority in writing of the transfer, the amount transferred, and the name and address of the transferee, and return the permit for reissuing.

(3) No transfer shall be valid unless the Authority is notified in accordance with subsection (2).

91 Contents of transferable permits

Every transferable permit shall specify---

(a) the substance in respect of which it is issued; and

(b) the dates of issue and expiry of the permit; and

(c) the amount of the substance which the permit holder is permitted to import or manufacture under the permit; and

(d) any other controls on the importation or manufacture of substances as the Authority thinks fit.

92 Modification of permits

The Authority may modify any permit to correct any clerical error or omission.

93 Registration of scheme

(1) Before commencing any transferable permit scheme, the Authority shall establish a register for each scheme.

(2) The Authority shall include in the register---

(a) the details of every permit issued; and

(b) the details of every transfer of the whole or any part of a transferable permit.

(3) The register shall be available for inspection upon request to any person.

(4) An entry in the register, in the absence of evidence to the contrary, shall be sufficient proof that the person named in the register is the holder of the transferable permit to which the entry relates.

94 Transferable permit not to be mortgaged

Any contract or other instrument purporting to create any interest in any transferable permit for the purpose of securing the payment of a debt or other pecuniary obligation, or for the performance of any other obligation, is void.

95 Prohibition on import or manufacture until transferable permit obtained

Where a transferable permit scheme exists for a substance---

(a) no person shall manufacture or import that hazardous substance unless any relevant transferable permit has been obtained for the amount of substance being manufactured or imported; and

(b) any Customs officer may permit the importation of any hazardous substance upon production by the importer of a relevant transferable permit for the amount of substance being imported.

Permissions and licences

Heading: inserted, on 24 March 2004, by section 6 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

95A Permissions

(1) This section applies if the Authority approves a substance subject to an obligation referred to in section 77A(2)(a) (namely that, before using the substance, a person must obtain a prior permission under this section for the general or particular use of the substance).

(2) An application for a permission under this section must be made in a form approved by the Authority, and must be accompanied by the appropriate charge (if any) fixed under section 21.

(3) In considering an application, the Authority must consider---

(a) the adverse effects involved in the use or uses of the substance to which the application relates; and

(b) the conditions (if any) that it thinks should be imposed as part of the permission.

(4) The Authority may grant a permission subject to any conditions it may specify in the permission that are consistent with the approval of the substance.

(5) The holder of a permission granted under this section is authorised to use the substance specified in the permission in accordance with the approval of the substance and the holder's permission.

(6) A permission granted under this section must be in writing and in a form approved by the Authority.

(7) The Authority may, at any time by notice in writing to the holder of a permission granted under this section,---

(a) add or delete any conditions, or otherwise vary any conditions:

(b) revoke a permission granted to the holder under this section.

Sections 95A: inserted, on 24 March 2004, by section 6 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

95B Licences

(1) This section applies if the Authority approves a substance subject to an obligation referred to in section 77A(2)(b) (namely, that a person must obtain a licence under this section before possessing the substance).

(2) An application for a licence under this section must---

(a) be made in a form prescribed by regulations referred to in subsection (4) or (in the absence of such regulations) in a form determined by the Authority; and

(b) be accompanied by the appropriate charge (if any) fixed under section 21.

(3) The Authority---

(a) must grant a licence under this section if satisfied that the applicant---

(i) is a fit and proper person to possess the substance concerned; and

(ii) meets the relevant test certification requirements that apply to the substance under section 82; and

(b) may make the licence subject to any conditions it may specify in the licence.

(4) Regulations made under section 76 or section 140, or both, may (without limitation)---

(a) specify the criteria the Authority must consider in determining whether the applicant is a fit and proper person:

(b) specify any other matters that the Authority may consider in determining whether to grant a licence under this section:

(c) prescribe the form of an application for a licence under this section:

(d) provide for the variation of licences under this section and provide for their revocation:

(e) provide for any other matters necessary for the administration of licences under this section.

(5) The holder of a licence granted under this section is authorised to possess the substance specified in the licence in accordance with the approval of the substance and the holder's licence.

Sections 95B: inserted, on 24 March 2004, by section 6 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Environmental user charges

96 Report on environmental user charges

(1) Where the Authority considers that a reduction in the likely occurrence of adverse effects similar to that achieved by the controls attached to any substance in accordance with section 77 could be achieved by---

(a) any environmental user charge; or

(b) any combination of an environmental user charge and controls prescribed in accordance with section 75 or section 76,---

the Authority may report to the Minister on such a charge or any combination of such controls and an environmental user charge.

(2) Before preparing any report in accordance with subsection (1), the Authority shall satisfy itself that any environmental user charge would be cost effective to implement having regard to the costs associated with the environmental user charge, including the costs of monitoring and the costs of alternative methods of control.

(3) Any report to the Minister made in accordance with subsection (1) may include any other matters relevant to any environmental user charge, including a report on---

(a) the time of commencement of any environmental user charge; and

(b) the duration of any environmental user charge; and

(c) any matters relevant to the implementation of environmental user charges; and

(d) use of the revenue from environmental user charges; and

(e) any procedure for adjusting or removing any controls already imposed upon a substance at the time of imposition of the environmental user charge; and

(f) any procedure for adjusting or removing any combination of controls and environmental user charge or an environmental user charge, after a reassessment of the substance under section 62.

Part 7

Inspection, enforcement, and ancillary powers

Inspection

97 Enforcement of Act

The following persons shall ensure the provisions of this Act (including any controls imposed on approvals granted under this Act) are enforced in the following situations:

(a) the chief executive of the department of State that is for the time

being responsible for the administration of the Health and Safety in Employment Act 1992 shall ensure that the provisions of this Act are enforced in any place of work:

(b) the chief executive of the department of State that is for the time being responsible for the administration of the Gas Act 1992 shall ensure that the provisions of this Act are enforced in, on, at, or around any distribution system, gas installation, or gas appliance:

(c) the Director of Land Transport may enforce the provisions of this Act in or on any motor vehicle, on any road, in or on any rail vehicle, or on any railway line:

(d) the Commissioner of Police (after consultation with the Director of Land Transport) shall ensure that the provisions of this Act are enforced in or on any motor vehicle, on any road, in or on any rail vehicle, or on any railway line:

(e) the Director of the Civil Aviation Authority shall ensure that the provisions of this Act are enforced in, on, or at any aircraft or aerodrome:

(f) the Director of Maritime Transport shall ensure that the provisions of this Act are enforced in or on any ship:

(g) the chief executive of the Ministry of Health shall ensure that the provisions of this Act are enforced where it is necessary to protect public health:

(h) the chief executive of any territorial authority---

(i) shall ensure that the provisions of this Act are enforced in or on any premises situated in the district of the territorial authority other than those premises specified in paragraphs (a) to (g):

(ii) may enforce the provisions of this Act in or on those premises specified in paragraphs (a) to (g) where the territorial authority is in or on those premises for the purposes of enforcing the provisions of the Resource Management Act 1991:

(iii) shall ensure that the provisions of this Act are enforced in or on those premises specified in paragraphs (a) to (g), where the function, power, or duty is transferred to the local authority in accordance with section 98:

(iv) shall ensure that the provisions of this Act are enforced in or on those premises specified in paragraphs (a) to (g) in respect of any substances to which Part 14 applies.

Section 97: words inserted, on 30 October 2003, by section 44 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 97(c): word omitted, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 97(c): word omitted, on 1 December 2004, by section 19(1) of the Land

Transport Management Amendment Act 2004 (2004 No 97).

Section 97(d): word omitted, on 20 July 2005, by section 103(3) of the Railways Act 2005 (2005 No 37).

Section 97(d): word omitted, on 1 December 2004, by section 19(1) of the Land Transport Management Amendment Act 2004 (2004 No 97).

Section 97(e): word substituted, on 7 May 1999, by section 8 of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 97(f): word substituted, on 1 December 2004, by section 19(1) of the Land Transport Management Amendment Act 2004 (2004 No 97).

97A Enforcement of Act in respect of new organisms

(1) The enforcement agency must ensure that the provisions of this Act are enforced in respect of new organisms.

(2) For the purpose of complying with subsection (1), the enforcement agency may appoint enforcement officers in accordance with this Act who may exercise also the powers of inspectors under the Biosecurity Act 1993 that may be exercised in respect of an unwanted organism, and the provisions of that Act apply with all necessary modifications.

(3) A person who may exercise powers under the Biosecurity Act 1993 in respect of unwanted organisms may also exercise those powers under that Act in respect of new organisms whether or not the person is appointed as an enforcement officer under this Act.

(4) Without limiting subsection (2), the provisions of the Biosecurity Act 1993 that apply, with all necessary modifications, for the purposes of this section include sections 162A, 163, and 164 of that Act.

(5) In this section,---

enforcement agency means the chief executive of the department of State responsible for the administration of the Biosecurity Act 1993

unwanted organism has the same meaning as in section 2(1) of the Biosecurity Act 1993.

Section 97A: inserted, on 30 October 2003, by section 45 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

98 Co-ordination of inspection

(1) Any person specified in section 97 or section 97A may,---

(a) appoint enforcement officers in accordance with section 100 to enforce the provisions of this Act; or

(b) transfer the power to enforce the provisions of this Act in their area in accordance with subsections (2) to (7) of this section.

(2) Any person who appoints any enforcement officers in accordance with subsection (1) shall, each year, no later than 1 month before the commencement of the Authority's financial year, notify the Authority of the premises where that person will appoint enforcement officers in accordance with section 100 and the nature and level of inspection and enforcement to be provided by those enforcement officers.

(3) Any person who has functions, powers, or duties under section 97 or section 97A may transfer all or any part of those functions, powers, or duties to another person specified in section 97 or section 97A, except that he or she may not transfer this power of transfer.

(4) Repealed.

(5) A person may not transfer any function, power, or duty under this section unless---

(a) the person has first---

(i) notified the Authority in accordance with subsection (2); and

(ii) notified the Authority where that person proposes to transfer the function to enforce the provisions of this Act to another person; and

(iii) has received the approval of the Authority to the transfer in the case of a transfer between territorial authorities or the approval of the relevant Ministers to the transfer in the case of a transfer between other persons; and

(b) both persons agree that the transfer is desirable on any of the following grounds:

(i) to ensure sufficient enforcement of this Act and to ensure that there is not unnecessary duplication of enforcement:

(ii) efficiency:

(iii) technical or special capability or expertise.

(6) A transfer of functions, powers, or duties under this section shall be made by agreement between the authorities concerned and on such terms and conditions as are agreed.

(7) A person to whom any function, power, or duty is transferred under this section may accept such transfer unless expressly forbidden to do so by the terms of any Act by or under which that person is appointed; and upon any such transfer, that person's functions, powers, and duties shall be deemed to be extended in such manner as may be necessary to enable the person to undertake, exercise, and perform the function, power, or duty.

(8) Any transfer of any function, power, or duty under this section may be changed or revoked at any time by agreement between the transferee and transferor and upon notice to the Authority.

Section 98(1): words substituted, on 30 October 2003, by section 46 of the

Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 98(3): words substituted, on 30 October 2003, by section 46 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 98(4): repealed, on 2 July 2001, by section 32 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

98A Chief executives of Ministry and Authority to have functions, powers, duties, and protections of enforcement officers

(1) For the purposes of this Act, a chief executive has the same functions, powers, duties, and protections that enforcement officers have under this Act.

(2) In subsection (1), chief executive means---

(a) the chief executive of the department of State responsible for the administration of this Act:

(b) the chief executive of the Authority.

Section 98A: inserted, on 30 October 2003, by section 47 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

99 Supervision of inspection

(1) The Authority shall ensure that the provisions of this Act are enforced in all premises likely to contain a hazardous substance or new organism and shall advise the persons specified in section 97 or section 97A and the Minister when the Authority considers that there is insufficient or unnecessary inspection and enforcement.

(2) The Authority shall record all notifications made by persons in accordance with section 98.

(3) The Authority may from time to time, as the Authority thinks fit,---

(a) appoint enforcement officers to enforce the provisions of this Act in such premises as the Authority thinks fit:

(b) authorise the chief executive of---

(i) any department specified in Schedule 1 of the State Sector Act 1988:

(ii) any Crown entity:

(iii) any local authority---

to appoint enforcement officers to enforce the provisions of this Act in or on any premises specified by the Authority.

(4) In this section, hazardous substance includes compressed gases, whether intrinsically hazardous or not.

Section 99(1): words substituted, on 30 October 2003, by section 48 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 99(3)(b)(ii): words omitted, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

Section 99(4): added, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

100 Appointment of enforcement officers

(1) No person shall be appointed as an enforcement officer unless that person has the prescribed qualifications to carry out the powers, functions, and duties specified in the officer's warrant of appointment.

(2) Any person who appoints any person other than an employee as an enforcement officer shall remain liable in every respect for the actions of that officer, while he or she is acting as such, as if that person were an employee of the appointer.

(3) Every person who appoints an enforcement officer shall supply each officer with a warrant specifying the functions that the officer may carry out, and any such warrant may at any time be revoked by the person who issued it or by any successor in office of that person.

(4) Where the chief executive of a territorial authority appoints an enforcement officer in accordance with this section, the chief executive may designate that officer as a district hazardous substances officer.

101 Duty of territorial authorities

(1) If the Minister considers that any territorial authority is not exercising or performing any of its functions, powers, or duties under this Act to the extent that the Minister considers necessary to achieve the purposes of this Act, the Minister shall consult with the Minister of Local Government and may appoint, on such terms and conditions as the Minister thinks fit, the Authority to exercise or perform all or any of those functions, powers, or duties in place of the territorial authority.

(2) Before making any appointment under subsection (1), the Minister shall give the territorial authority at least 20 working days' notice in writing of the Minister's intention to do so, specifying the reasons why the Minister considers such an appointment is necessary.

(3) The notice shall invite the territorial authority to give to the Minister, within such period (being not less than 20 working days after the date of the notice) as may be specified in the notice, such written comments as the territorial authority wishes to make about any steps that the territorial authority is taking, or is intending to take, that may obviate the need for an appointment, and the Minister shall consider those comments and the need for making an appointment before making an appointment.

(4) The Authority, if appointed under subsection (1) to exercise or perform the functions, powers, or duties of a territorial authority under this Act, may

do so as if it were the territorial authority; and the provisions of this Act shall apply accordingly.

(5) All costs, charges, and expenses incurred by the Authority for the purposes of this section, in exercising or performing any functions, powers, or duties of a territorial authority under this Act, shall be recoverable from the territorial authority as a debt due to the Authority or may be deducted from any money payable to the territorial authority by the Authority.

(6) In making any such appointment, the Minister shall specify the period for which the appointment is made, and it may from time to time be renewed.

(7) Any appointment of the Authority under this section may be revoked at any time by the Minister.

(8) In determining whether any appointment under this section should be renewed or whether a new appointment should be made, the Minister shall consider whether the territorial authority is capable of exercising its powers, functions, and duties under this Act, and, if the Minister considers the territorial authority is so capable, the territorial authority shall be directed by the Minister to resume those powers, functions, and duties.

102 Building Act 2004

(1) Where an enforcement officer believes that any building or sitework does not comply with the Building Act 2004, the enforcement officer shall, by notice in writing, give to the appropriate territorial authority details of the respects in which the building or sitework is believed not to comply.

(2) For the purposes of this section, the terms building, sitework, and territorial authority have the meanings ascribed to them by the Building Act 2004.

Section 102(1) heading: expression substituted, on 31 March 2005, pursuant to section 414 of the Building Act 2004 (2004 No 72).

Section 102(1): expression substituted, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 102(2): expression substituted, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

103 Powers of entry for inspection

(1) Any enforcement officer may, at any reasonable time,---

(a) go on, into, under, and over any premises (excluding dwellings); or

(b) with the consent of the occupier, go on, into, under, and over a dwelling---

for the purpose of inspection to---

(c) monitor compliance with the conditions or controls on any hazardous substance or new organism in any premises where a hazardous substance or new

organism approved under this Act is located; or

(d) determine the nature of any substance or organism in the premises; or

(e) determine whether or not any person is complying with a compliance order.

(2) For the purposes of subsection (1), an enforcement officer may---

(a) take samples of water, air, soil, any substance, or any organism; and

(b) open containers or packages (including secured or sealed containers or packages) to inspect the contents; and

(c) take photographs and measurements and make sketches and recordings; and

(d) take or remove any thing for analysis or testing; and

(e) conduct examinations, tests, inquiries, demonstrations, and inspections; and

(ea) require that any place or thing specified by the enforcement officer is not disturbed for a reasonable time pending any examination, test, inquiry, demonstration, or inspection; and

(eb) require the making of statements by the person in charge of the premises, in any form or manner specified by the enforcement officer, about conditions, material, or equipment relevant to the purpose of the inspection; and

(f) require the production of any documents relevant to the purpose of the inspection; and

(g) take copies of the documents or information or extracts from those documents or information.

(3) Where any enforcement officer has taken any thing in accordance with subsection 2(d), the enforcement officer shall give the occupier of the premises written notice of the things that have been taken, the reason for taking the things and where the things will be kept.

(4) Within 5 working days of removing the thing the enforcement officer shall give the person in charge of the premises written notice stating---

(a) whether or not the thing will be returned or destroyed; and

(b) either---

(i) the time and date of the return of the thing to the premises; or

(ii) the results of the analysis of the thing and why it is being destroyed.

(5) Every enforcement officer exercising any of the powers conferred under this section shall, at the time of exercising that power, and thereafter on request, produce---

- (a) evidence of that person's appointment as an enforcement officer; and
- (b) evidence of that person's identity.

(6) An enforcement officer may take any person with relevant experience or expertise on to the premises to assist the officer with the inspection.

(7) Nothing in this section shall limit or affect the privilege against self incrimination.

Section 103(1)(a): words inserted, on 31 December 2000, by section 33(1) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 103(1)(c): words substituted, on 30 October 2003, by section 49 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 103(2)(c): substituted, on 31 December 2000, by section 33(2) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 103(2)(ea): inserted, on 31 December 2000, by section 33(3) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 103(2)(eb): inserted, on 31 December 2000, by section 33(3) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 103(6): substituted, on 31 December 2000, by section 33(4) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Compliance orders

104 Scope of compliance order

(1) A compliance order may be served on any person by an enforcement officer---

(a) requiring that person to cease, or prohibiting that person from commencing, anything done or to be done by or on behalf of that person that, in the opinion of the enforcement officer,---

(i) contravenes or is likely to contravene this Act, any regulations, or a control imposed by an approval under this Act; or

(ii) relates to any hazardous substance or new organism and is or is likely to be dangerous, to such an extent that it has or is likely to have an adverse effect on the health and safety of people or the environment; or

(b) requiring that person to do something that, in the opinion of the enforcement officer, is necessary to ensure that person complies with this Act, any regulations, controls imposed by an approval granted under this Act, or is necessary to avoid, remedy, or mitigate any actual or likely adverse effects on people or the environment resulting from any breach of any regulations or any

controls imposed by an approval granted under this Act---

- (i) caused by or on behalf of the person; or
- (ii) relating to any land of which the person is the owner or occupier.

(2) A compliance order may be made subject to such conditions as are reasonable in the circumstances.

105 Compliance with compliance order

Subject to the rights of appeal in section 125, any person on whom a compliance order is served shall---

- (a) comply with the order within the period specified in the order; and
- (b) unless the order directs otherwise, pay all the costs and expenses of complying with the order.

106 Form and content of compliance order

(1) Every compliance order shall be in the prescribed form and shall state---

- (a) the name of the person to whom it is addressed; and
- (b) the reasons for the order; and
- (c) the action required to be taken or ceased or not undertaken; and
- (d) the period within which the action shall be taken or cease; and
- (e) the consequences of either not complying with the order or lodging a notice of appeal; and
- (f) the rights of appeal under section 125; and
- (g) the name and address of the agency whose enforcement officer served the order.

(2) The period referred to in paragraph (1)(d) must---

- (a) commence at the time the notice is served; and
- (b) be reasonable, having regard to the circumstances giving rise to the compliance order.

Section 106(1)(d): words omitted, on 30 October 2003, by section 50(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 106(1)(f): words omitted, on 30 October 2003, by section 50(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 106(2): added, on 30 October 2003, by section 50(3) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

107 Service of compliance order

(1) Where a compliance order is to be served on a person, it may be served---

(a) by delivering it personally to the person (other than a Minister of the Crown); or

(b) by delivering it at the usual or last known place of residence or business of the person by any means, including by facsimile; or

(c) by sending it by pre-paid post addressed to the person at the usual or last known place of residence or business of that person.

(2) Where a notice or other document is to be served on a body (whether incorporated or not) for the purposes of this Act, service on an officer of the body, or on the registered office of the body, in accordance with subsection (1) shall be deemed to be service on the body.

(3) Where a notice or other document is to be served on a partnership for the purposes of this Act, service on any one of the partners in accordance with subsection (1) shall be deemed to be service on the partnership.

(4) Where a notice or other document is sent by post to a person in accordance with subsection (1)(c), it shall be deemed, in the absence of proof to the contrary, to be received by the person at the time at which the letter would have been delivered in the ordinary course of the post.

108 Cancellation of compliance order

(1) For the purposes of this section, relevant person means the person or body who or which appointed the enforcement officer who served the compliance order.

(2) Where a relevant person considers that a compliance order is no longer required, the relevant person may cancel the order at any time except where the order is subject to appeal under section 125.

(3) Where any relevant person delegates his or her power under this section, no person to whom the powers are delegated shall consider any application made under subsection (6), in respect of any compliance order which he or she has issued.

(4) The chief executive of a territorial authority may delegate any of his or her powers, functions, or duties under this section.

(5) The relevant person shall give written notice of a decision under subsection (2) to cancel a compliance order to any person subject to the order.

(6) Any person who is directly affected by a compliance order may apply in writing to the relevant person to change or cancel the order.

(7) The relevant person shall, as soon as practicable, consider the application, having regard to the purpose for which the compliance order was given, the effect of a change or cancellation on that purpose, and any other

matter the relevant person thinks fit; and the relevant person may confirm, change, or cancel the order.

(8) The relevant person shall give written notice of the decision to the person who applied under subsection (6).

(9) Where the relevant person, after considering an application made under subsection (6) by a person who is directly affected by a compliance order, confirms the order or changes it in a way other than that sought by that person, that person may appeal to the District Court in accordance with section 125(3) against the whole or any part of the compliance order.

(10) A compliance order may not be cancelled where the District Court has confirmed the order.

Enforcement

109 Offences

(1) Every person commits an offence against this Act who---

(a) manufactures any hazardous substance in contravention of this Act; or

(aa) imports, manufactures, uses, or stores a persistent organic pollutant in contravention of this Act; or

(b) develops or field tests a new organism in contravention of this Act; or

(c) knowingly imports or releases a new organism in contravention of this Act; or

(d) knowingly, recklessly, or negligently---

(i) manufactures, imports, develops, uses, or disposes of any hazardous substance or new organism where any approval is suspended in accordance with section 64:

(ii) possesses or disposes of any hazardous substance or new organism imported, manufactured, developed, or released in contravention of this Act; or

(e) fails to comply with---

(i) any controls imposed by any approval granted under this Act; or

(ii) any controls specified in any regulations; or

(iii) any requirement to obtain a test certificate specified in any regulations; or

(ea) fails to comply with a condition on a licence or permission granted under section 95A or section 95B; or

(f) fails to comply with any compliance order served under section 107;
or

(g) fails to comply with any of the requirements of section 124; or

(h) fails without any lawful justification or excuse to obtain any transferable permit when required to do so by any Order in Council in force under this Act; or

(i) being a manufacturer, developer, or importer of any hazardous substance or new organism knowingly fails to report any significant new information of any adverse effect of that hazardous substance or new organism;
or

(j) knowingly personates any enforcement officer; or

(k) wilfully obstructs any enforcement officer in the course of his or her duties; or

(l) falsely informs a person that an emergency exists where that person knows the information to be false; or

(m) knowingly labels any package or container in such a manner that the label could in an emergency wrongly indicate the presence of hazardous substances to an enforcement officer, fire services officer, or member of the police.

(2) Notwithstanding anything in the Summary Proceedings Act 1957, any information in respect of any offence against subsection (1) may be laid by any person at any time within 120 working days after the time when the contravention giving rise to the information first became known, or should have become known, to that person.

Section 109(1)(aa): inserted, on 23 December 2004, by section 12 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 109(1)(b): words inserted, on 7 May 1999, by section 9 of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 109(1)(ea): inserted, on 24 March 2004, by section 7 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

110 Infringement offences

In sections 111 to 113---

infringement fee, in relation to an infringement offence, means the amount fixed by regulations made under section 140, as the infringement fee for the offence

infringement offence means an offence specified as such in regulations made under section 140.

Section 110 infringement fee: expression substituted, on 7 May 1999, by section 15(d) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 110 infringement offence: expression substituted, on 7 May 1999, by section 15(d) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

111 Commission of infringement offence

Where any person is alleged to have committed an infringement offence, that person may either---

(a) be prosecuted against for the alleged offence under the Summary Proceedings Act 1957; or

(b) be served with an infringement notice as provided for in section 112.

112 Infringement notices

(1) Where an enforcement officer observes a person committing an infringement offence, or has reasonable cause to believe such an offence is being or has been committed by that person, an infringement notice may be issued in respect of that offence.

(2) Any enforcement officer (not necessarily the officer who issued the notice) may deliver the infringement notice (or a copy of it) to the person alleged to have committed an infringement offence personally or by post addressed to that person's last known place of residence or business; and in that case for the purpose of the Summary Proceedings Act 1957, it (or the copy) shall be deemed to have been served on that person when it was posted.

(3) Every infringement notice shall be in the prescribed form and shall contain the following particulars---

(a) such details of the alleged infringement offence as are sufficient fairly to inform a person of the time, place, and nature of the alleged offence; and

(b) the amount of the infringement fee specified for that offence; and

(c) the address at which the infringement fee may be paid; and

(d) the time within which the infringement fee must be paid; and

(e) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and

(f) a statement that the person served with the notice has the right to request a hearing; and

(g) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing; and

(h) such other particulars as are prescribed.

(4) Where an infringement notice has been issued under this section, proceedings in respect of the offence to which the notice relates may be commenced in accordance with section 21 of the Summary Proceedings Act 1957; and in that case the provisions of that section shall apply with the necessary modifications.

113 Entitlement to infringement fees

A territorial authority shall be entitled to retain all infringement fees received by it in respect of infringement offences where the infringement notice was issued by an enforcement officer employed by that authority.

114 Penalties

(1) Every person who commits an offence against paragraph (a) or paragraph (aa) or paragraph (b) or paragraph (c) or paragraph (d) or paragraph (e) or paragraph (ea) of section 109(1) is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$500,000 and, if the offence is a continuing one, to a further fine not exceeding \$50,000 for every day or part of a day during which the offence has continued.

(2) Every person who commits an offence against paragraph (f) or paragraph (g) or paragraph (h) or paragraph (i) of section 109(1), or section 156(1), is liable on summary conviction to a fine not exceeding \$50,000 and, if the offence is a continuing one, to a further fine not exceeding \$5,000 for every day or part of a day during which the offence has continued.

(3) Every person who commits an offence against paragraph (j) or paragraph (k) or paragraph (l) or paragraph (m) of section 109(1) is liable on summary conviction to a fine not exceeding \$5,000.

(4) Where any person is convicted of an offence against section 109, the court may, instead of or in addition to imposing any fine or term of imprisonment, revoke any transferable permit held by that person.

(5) Where any person is convicted of an offence against section 109, the court may, instead of or in addition to imposing any fine or term of imprisonment, order the person to mitigate or remedy any adverse effects on people or the environment---

(a) caused by or on behalf of the person; or

(b) relating to any land of which the person is the owner or occupier---

or to pay the costs of doing so.

(6) Where any person is convicted of an offence against section 109, the court may, instead of or in addition to imposing any fine or term of imprisonment, order the destruction of any new organism.

(6A) To avoid doubt, the court may make an order under either or both of subsection (5) and subsection (6) against the same person in respect of the same offence.

(7) The continued existence of anything, or the intermittent repetition of any actions, contrary to any provision of this Act shall be deemed to be a continuing offence.

Section 114(1): words inserted, on 23 December 2004, by section 13 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 114(1): words inserted, on 24 March 2004, by section 8 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 114(6A): inserted, on 30 October 2003, by section 51 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

115 Liability of employers and principals

(1) Subject to subsection (3), where any offence is committed against this Act by a person as the employee of another person, that offence shall, for the purposes of this Act, be treated as committed by that other person as well as by the first-mentioned person, whether or not it was done with that other person's knowledge or approval.

(2) Where any offence is committed against this Act by a person acting as the agent of another person, that offence shall, for the purposes of this Act, be treated as committed by the principal unless it is done without the principal's express or implied authority.

(3) In any proceedings (being proceedings for an offence against this Act or regulations) against any person in respect of any offence alleged to have been committed against this Act by an employee of that person, it shall be a defence for that person to prove---

(a) that---

(i) he or she did not know nor could reasonably be expected to have known that the offence was to be or was being committed; or

(ii) he or she took such steps as were reasonably practicable to prevent the commission of the offence; and

(b) that he or she took such steps as were reasonable in all the circumstances to remedy any effects of the act or omission giving rise to the offence.

116 Liability of directors and officers of bodies corporate

Where any body corporate is convicted of an offence against this Act, every director and every person concerned in the management of the body corporate shall be guilty of the like offence if it is proved---

(a) that the act that constituted the offence took place with his or her authority, permission or consent; and

(b) that he or she knew or could reasonably be expected to have known that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

117 Strict liability and defences

(1) In any prosecution for an offence specified in paragraph (a) or paragraph (aa) or paragraph (b) or paragraph (e) or paragraph (f) or paragraph (g) of section 109(1), it is not necessary to prove that the defendant intended to commit the offence.

(2) It is a defence to prosecution of the kind referred to in subsection (1), if the defendant proves---

(a) that---

(i) the action or event to which the prosecution relates was necessary for the purposes of saving or protecting life or health, or preventing serious damage to property or avoiding an actual or likely adverse effect on the environment; and

(ii) the conduct of the defendant was reasonable in the circumstances; and

(iii) the defendant took such steps as were reasonable in all the circumstances to mitigate or remedy the effects of the action or event after it occurred; or

(b) that the action or event to which the prosecution relates was due to an event beyond the control of the defendant, including natural disaster, mechanical failure, or sabotage, and in each case---

(i) the action or event could not reasonably have been foreseen or been provided against by the defendant; and

(ii) the defendant took such steps as were reasonable in all the circumstances to mitigate or remedy the effects of the action or event after it occurred; or

(c) that the action or event to which the prosecution related was within the defendant's control; but---

(i) the defendant had taken all reasonable steps to prevent the action or event; and

(ii) the defendant took such steps as were reasonable in all the circumstances to mitigate or remedy the effects of the action or event after it occurred.

(3) It is a defence to prosecution for any offence specified in section 109(1)(e)(ii) or (iii) that the defendant---

(a) complied with any code of practice approved under section 79 as a method of achieving the controls that it is alleged that the defendant failed to comply with; or

(b) was the holder of any current test certificate issued by any test certifier in accordance with section 82, certifying that the controls that it is alleged that the defendant failed to comply with had been met,---

unless the defendant had reason to believe that the code of practice or the structure or goods covered by the test certificate did not meet the relevant controls.

Section 117(1): words inserted, on 23 December 2004, by section 14 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 117(3): words omitted, on 7 May 1999, by section 10 of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

118 Fines to be paid to territorial authority instituting prosecution

(1) Subject to subsection (2), where a person is convicted of an offence under section 109 and the court imposes a fine, the court shall, if the information for that offence was laid on behalf of a territorial authority, order that the fine be paid to that territorial authority.

(2) There shall be deducted from every amount payable to a territorial authority under subsection (1), a sum equal to 10% thereof, and that sum shall be credited to the Crown Bank Account.

(3) Notwithstanding anything in subsection (2), where any money awarded by a court in respect of any loss or damage is recovered as a fine, and that fine is ordered to be paid to a territorial authority under subsection (1), no deduction shall be made under subsection (2) in respect of that money.

(4) Subject to subsection (2), an order of the court made under subsection (1) shall be sufficient authority for the Registrar receiving the fine to pay that fine to the territorial authority entitled to it under the order.

(5) Nothing in section 73 of the Public Finance Act 1989 shall apply to any fine ordered to be paid to any territorial authority under subsection (1).

119 Search warrants

(1) Any District Court Judge or Justice of the Peace or Community Magistrate or any Registrar who is satisfied, on application in writing made on oath, that there are reasonable grounds for believing that there is, in or on or under or over any premises or any dwelling,---

(a) any substance or organism that has been imported, manufactured, developed, released, held, transported, or disposed of in contravention of this Act; or

(b) any documents or other records which there are reasonable grounds to believe may be evidence of the commission of any offence under this Act to which paragraph (a) applies,---

may issue a search warrant in the prescribed form.

(2) Every search warrant shall be directed either to a member of the police by name or to every member of the police or to any enforcement officer by name, but in any of those cases, the warrant may be executed by any member of the police.

(3) On issuing a warrant, the Judge, Justice of the Peace, Community Magistrate, or Registrar may impose such reasonable conditions on its execution as he or she thinks fit.

(4) Any member of the police or any enforcement officer may call any person to assist him or her in the execution of a search warrant.

(5) Every warrant shall, subject to any conditions imposed under subsection (3), authorise the member of the police or the enforcement officer who is executing it, and any person called on by that member or officer to assist,---

(a) to enter the premises or dwelling on 1 occasion within 14 days after the date of the issue of the warrant at any time that is reasonable in the circumstances; and

(b) to use such force, both for making entry (either by breaking open doors or otherwise) and for breaking open anything on the premises or dwelling, as is reasonable in the circumstances; and

(c) to search for and seize---

(i) any substance or organism found on the premises or dwelling and believed on reasonable grounds to have been imported, manufactured, developed, released, held, transported, or disposed of in contravention of this Act; and

(ii) any documents or other records which there are reasonable grounds to believe may be evidence of the commission of any offence under this Act; and

(d) to take any photographs, and make any drawings of any structure, container, packaging, or label where there are reasonable grounds to believe that the structure, container, packaging, or label is in breach of the provisions of this Act or regulations.

(6) Any member of the police or enforcement officer who executes a search warrant shall carry the warrant with him or her, and shall produce it for inspection---

(a) on first entering the premises or dwelling, to the person appearing to be in charge of the premises or dwelling; and

(b) whenever subsequently required to do so, on the premises or dwelling, by any other person appearing to be in charge of the premises or any part of the premises or dwelling.

(7) Where the occupier of the premises or dwelling is not present at the time the search warrant is executed, the member of the police or enforcement officer shall leave in a prominent place on the premises or dwelling a written

statement of the time and date of the search, and of the member of the police's or enforcement officer's name and the address of the police station or other office to which enquiries should be made.

(8) Where any substance or organism or books, documents, or other records is or are seized in execution of a search warrant, the member of the police or enforcement officer executing the warrant shall leave in a prominent place on the premises or dwelling or send to the occupier, within 10 working days after the search, a written inventory of all things so seized.

Section 119(1): words inserted, on 30 June 1998, by section 7 of the District Courts Amendment Act 1998 (1998 No 76).

Section 119(3): words inserted, on 30 June 1998, by section 7 of the District Courts Amendment Act 1998 (1998 No 76).

120 Dealing with property seized by enforcement officers

Section 199 of the Summary Proceedings Act 1957 applies, with the necessary modifications, to any property seized by any enforcement officer as if---

(a) the reference in that section to section 198 of that Act were a reference to section 119 or section 137 of this Act; and

(b) references in that section to a constable were references to an enforcement officer.

121 Powers in respect of prohibited imports

The importation of a hazardous substance in breach of this Act is the importation of a prohibited good under the Customs and Excise Act 1996, and the provisions of that Act apply accordingly.

Section 121: substituted, on 7 May 1999, by section 11 of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

122 Power to refuse entry to hazardous substance

Where a Customs officer has reasonable cause to believe that a hazardous substance is being imported in breach of this Act, that Customs officer may direct that the hazardous substance remain on the ship or aircraft and leave New Zealand.

Section 122: substituted, on 7 May 1999, by section 11 of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

123 Declaration that organism not genetically modified

Any inspector (as defined in section 2(1) of the Biosecurity Act 1993) may require any person importing any organism to declare, by statutory declaration, that the organism is not a genetically modified organism.

124 Responsibilities of carrier and person in charge of any craft

(1) For the purposes of this Act, the carrier and the person in charge of

any craft that berths, lands, or otherwise arrives in New Zealand from another country, or that is to so berth, land, or arrive, shall---

(a) ensure that any documentation, required by regulations, in relation to all hazardous substances loaded onto that craft is available:

(b) on arrival of the craft at a port of entry or Customs airport, produce for inspection such documentation as a Customs officer may lawfully specify.

(2) The carrier and the person in charge of a craft leaving New Zealand shall---

(a) provide transportation from New Zealand, at the cost in respects of the carrier, of any hazardous substance on board the craft, or any other craft operated by the carrier when it arrived in New Zealand, which was not accompanied by the documentation required by regulations:

(b) in respect of any hazardous substance for which the carrier is obliged to provide transportation or the cost of transportation under paragraph (a), to pay all the costs (if any) incurred by the Crown in holding that substance before the removal of that substance from New Zealand.

Part 7A

Pecuniary penalties and civil liability for breaches relating to new organisms

Part 7A: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

124A Interpretation

In this Part, unless the context otherwise requires,---

Court means the High Court

enforcement agency means the chief executive of the department of State responsible for the administration of the Biosecurity Act 1993.

Section 124A: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Pecuniary penalties

Heading: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

124B Pecuniary penalty order

(1) The enforcement agency may apply to the Court for an order that a person pay to the Crown a pecuniary penalty under this Act.

(2) The Court may make the order if it is satisfied that the person---

(a) developed, field tested, imported, or released a new organism in

breach of this Act; or

(b) possessed or disposed of any new organism imported, manufactured, developed, or released in breach of this Act; or

(c) failed to comply with any controls relating to a new organism---

(i) imposed by any approval granted under this Act; or

(ii) specified in regulations made under this Act.

(3) The Court must not make the order if the person satisfies the Court that the person did not know, and could not reasonably have known, of the breach.

Section 124B: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

124C Amount of pecuniary penalty

(1) The Court must not make an order for the payment of a pecuniary penalty that exceeds,---

(a) in the case of an individual, \$500,000; or

(b) in the case of a body corporate, the greater of---

(i) \$10,000,000; or

(ii) if it can be readily ascertained and if the Court is satisfied that the contravention occurred in the course of producing a commercial gain, 3 times the value of any commercial gain resulting from the contravention; or

(iii) if the commercial gain cannot be readily ascertained, 10% of the turnover of the body corporate and all of its interconnected bodies corporate (if any).

(2) In determining an appropriate penalty under this section, the Court must have regard to all relevant matters, including---

(a) the nature and extent of the breach:

(b) the nature and extent of any loss or damage suffered by any person or to the environment as a result of the breach:

(c) the circumstances in which the breach took place:

(d) whether or not the person has previously been found in proceedings under this Act to have engaged in any similar conduct:

(e) the steps taken by the person to bring the breach to the attention of the enforcement agency:

(f) the steps taken by the person to avoid, remedy, or mitigate the effects of the breach.

(3) In this section, interconnected and turnover have the same meaning as in the Commerce Act 1986.

Section 124C: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

124D Other orders instead of or in addition to pecuniary penalty order

(1) At the conclusion of proceedings for an order for the payment of a pecuniary penalty under section 124B, the Court may, instead of or in addition to making the order, make---

(a) an order that the person mitigate or remedy any adverse effects on people or the environment---

(i) caused by or on behalf of the person; or

(ii) relating to any land that the person owns or occupies; or

(b) an order to pay the costs of mitigating or remedying the adverse effects specified in paragraph (a).

(2) At the conclusion of proceedings for an order for the payment of a pecuniary penalty under section 124B, the Court may, instead of or in addition to making the order, make an order for the destruction of the new organism involved in the breach.

(3) To avoid doubt, the Court may make an order under either or both of subsections (1) and (2) against the same person in respect of the same breach.

Section 124D: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

124E Standard of proof and procedural matters

In proceedings for an order under section 124B,---

(a) the standard of proof is the standard of proof that applies in civil proceedings; and

(b) the enforcement agency may, by order of the Court, obtain discovery and administer interrogatories.

Section 124E: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

124F Relationship between concurrent proceedings for pecuniary penalty and criminal proceedings

(1) Criminal proceedings under this Act may be started against a person whether or not proceedings for an order under section 124B have been started against the person for the same act or omission or substantially the same act or omission in respect of which the criminal proceedings have been started.

(2) Uncompleted proceedings for an order under section 124B must be stayed if criminal proceedings are started or have already been started against the person for the same act or omission or substantially the same act or omission in respect of which the order is sought.

Section 124F: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Civil liability for acts and omissions while in breach

Heading: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

124G Civil liability

(1) A person is liable in damages for any loss or damage caused by any act or omission of the person while---

(a) developing, field testing, importing, or releasing a new organism in breach of this Act:

(b) possessing or disposing of any new organism imported, manufactured, developed, or released in breach of this Act; or

(c) failing to comply with any controls relating to a new organism---

(i) imposed by any approval granted under this Act; or

(ii) specified in any regulations made under this Act.

(2) A person is liable under subsection (1) whether or not---

(a) the person intended the act, omission, or breach; or

(b) the person was taking reasonable care when the act, omission, or breach occurred.

(3) To avoid doubt, proceedings under this section are in addition to, and not in substitution for, any other cause of action.

Section 124G: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

124H Defences to liability under section 124G

(1) A person is not liable under section 124G if the person proves 1 or more of the defences specified in subsection (2) in relation to the breach.

(2) The defences are---

(a) that---

(i) the breach was necessary for the purpose of---

(A) saving or protecting life or health; or

(B) preventing serious damage to property; or

(C) avoiding an actual or likely adverse effect on the environment; and

(ii) the conduct of the defendant was reasonable in the circumstances; and

(iii) the defendant took steps that were reasonable in all the circumstances to mitigate or remedy the effects of the breach after it occurred; or

(b) that the breach was due to an event beyond the control of the defendant (including natural disaster, mechanical failure, or sabotage) and---

(i) the event could not reasonably have been foreseen or been provided against by the defendant; and

(ii) the defendant took steps that were reasonable in all the circumstances to mitigate or remedy the effects of the breach after the event occurred; or

(c) that the defendant did not know, and could not reasonably have known, of the breach.

Section 124H: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Liability for acts and omissions of others

Heading: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

124I Breaches, acts, and omissions by directors, employees, or agents

(1) This section applies for the purposes of sections 124B and 124G.

(2) A body corporate is to be treated as in breach of this Act or as having done or omitted to do an act if---

(a) a director, employee, or agent of the body corporate, acting within the scope of his or her actual or apparent authority, is in breach of this Act or has done or omitted to do an act; or

(b) any other person, at the direction or with the consent or agreement (whether express or implied) of a director, employee, or agent of the body corporate, given within the scope of the actual or apparent authority of the director, employee, or agent, is in breach of this Act or has done or omitted to do an act.

(3) A person (person A) who is not a body corporate is to be treated as in breach of this Act or as having done or omitted to do an act if---

(a) an employee or agent of person A, acting within the scope of his or

her actual or apparent authority, is in breach of this Act or has done or omitted to do an act; or

(b) any other person, at the direction or with the consent or agreement (whether express or implied) of an employee or agent of person A, given within the scope of the actual or apparent authority of the employee or agent, is in breach of this Act or has done or omitted to do an act.

(4) If a person in breach of this Act has a defence to the breach under section 124H, the defence is also available to another person if the breach is to be treated under subsection (2) or subsection (3) as also the breach of the other person.

(5) However, the defence under section 124H(2)(c) is not available to the other person unless the other person also proves that he or she did not know, and could not reasonably have known, of the breach by the person.

(6) If the Court is prevented by section 124B(3) from making an order under that section against a person in breach of this Act and the breach is to be treated under subsection (2) or subsection (3) of this section as also the breach of another person, the Court must not make an order under section 124B against the other person if it is satisfied that the other person did not know and could not reasonably have known of the breach.

Section 124I: inserted, on 30 October 2003, by section 52 of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Part 8 Appeals

125 Appeals

(1) In any case where the Authority---

(a) issues a transferable permit entitling the holder to import or manufacture less substance than the holder claimed to be entitled to import or manufacture; or

(b) declines any application for a transferable permit; or

(c) revokes any transferable permit; or

(d) imposes any charge on any person to recover costs in accordance with section 21; or

(e) declines any application for approval as a test certifier in respect of any relevant controls in accordance with section 84; or

(f) revokes any approval to act as a test certifier in respect of any relevant controls in accordance with section 86; or

(g) suspends all or any part of any approval to act as a test certifier in accordance with section 86; or

(h) Repealed

(i) declines any application under section 51 to tranship a substance or organism,---

any person directly affected may appeal against that decision to the District Court.

(1A) A person may appeal to the District Court against---

(a) a decision of the Authority, under section 95A,---

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

(ii) declining to grant the person a permission or revoking a permission held by the person; or

(b) a decision of the Authority, under section 95B,---

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

(ii) declining to grant the person a licence or revoking a licence held by the person.

(2) In any case where---

(a) any property is seized and retained pursuant to section 119; or

(b) an application for compensation is declined in accordance with section 138; or

(c) costs are awarded in accordance with section 61,---

the person directly affected may appeal against that decision to the District Court.

(2A) Where a Customs officer directs in accordance with section 122 that a hazardous substance remains on a ship or aircraft, the person directly affected may appeal against that direction to the District Court.

(3) Any person on whom a compliance order is served may appeal to the District Court against the whole or any part of that order.

(4) Any person who lodges a notice of appeal under subsection (3) may apply to the District Court for a stay of the compliance order until the determination of the appeal.

(5) The District Court shall not confirm a compliance order against which an appeal has been lodged where the person on whom the order was served was acting in accordance with---

(a) controls on any hazardous substance under this Act; or

(b) conditions imposed on an approval granted under this Act.

(6) Subject to subsection (7) the decision of the Court on any appeal under this Act shall be final.

(7) Any party to an appeal under this section may further appeal to the High Court on a question of law.

Section 125(1)(h): repealed, on 7 May 1999, by section 12(1) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 125(1A): inserted, on 24 March 2004, by section 9 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 125(2A): inserted, on 7 May 1999, by section 12(2) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

126 Appeal on question of law

(1) Any---

(a) party to any application for an approval or an application under section 26 or regulations; or

(b) person who made submissions to the Authority on any application for an approval or an application under section 26 or regulations---

may appeal against the decision of the Authority to the High Court on a question of law, unless a right of appeal to the District Court against the decision is provided for in any other provision of this Act.

(2) Any report and recommendation of the Authority under section 72 is deemed to be a decision for the purposes of Part 10 of the High Court Rules.

(3) An appeal under this section shall be made in accordance with the High Court Rules, except to the extent that those rules are inconsistent with sections 127 to 134.

127 Notice of appeal

Before or immediately after the filing and service of a notice of appeal, the appellant shall serve a copy of the notice on---

(a) the Authority; and

(b) every other party to the proceedings; and

(c) any other person who made a submission to the Authority.

128 Right to appear and be heard on appeal

(1) A party to any proceedings, or any person who made submissions to the Authority, and who wishes to appear and be heard on an appeal to the High Court, shall give notice of his or her intention to appear to---

- (a) the appellant; and
- (b) the Registrar of the High Court; and
- (c) the Authority.

(2) The notice to appear under subsection (1) shall be served within 10 working days after the party or the person was served with the notice of appeal.

129 Parties to appeal before High Court

(1) The parties to an appeal before the High Court are the appellant, the Authority, and any person who gives notice of intention to appear under section 128.

(2) The Registrar of the High Court shall ensure that the parties to an appeal before the High Court are served with---

- (a) a copy of every document which is filed or lodged with the Registrar of the High Court relating to the appeal; and
- (b) notice of the time and date set down for hearing the appeal.

130 Orders of High Court

(1) The High Court may, on application to it or on its own motion, make an order directing the Authority to lodge with the Registrar of the High Court all or any of the following things:

(a) anything in the possession of the Authority relating to the appeal; and

(b) a report recording, in respect of any matter or issue the Court may specify, any of the findings of fact of the Authority which are not set out in its decision or report and recommendation; and

(c) a report setting out, so far as is reasonably practicable and in respect of any issue or matter the order may specify, any reasons or considerations to which the Authority had regard but which are not set out in its decision or report and recommendation.

(2) An application under subsection (1) shall be made,---

(a) in the case of the appellant, within 20 working days after the date on which the notice of appeal is lodged; or

(b) in the case of any other party to the appeal, within 20 working days after the date of the service on him or her of a copy of the notice of appeal.

(3) The High Court may make an order under subsection (1) only if it is satisfied that a proper determination of a point of law so requires; and the order may be made subject to such conditions as the High Court thinks fit.

131 Additional appeals on points of law

(1) When a party to an appeal, other than the appellant, wishes to contend that the decision or report and recommendation of the Authority or District Court is in error on other points of law, that party may lodge a notice to that effect with the Registrar of the High Court.

(2) The notice under subsection (1) shall be lodged within 20 working days after the date on which the respondent is served with a copy of the notice of appeal.

(3) Sections 127 to 129 apply to a notice lodged under subsection (1), with all necessary modifications.

132 Extension of time

On the application of a party to an appeal, the High Court may extend any period of time stated in sections 128 and 130.

133 Date of hearing

When a party to an appeal notifies the Registrar of the High Court---

(a) that the notice of appeal has been served on all parties to the proceedings; and

(b) either---

(i) that no application has been lodged under section 130; or

(ii) that any application lodged under section 130 has been complied with---

the appeal is ready for hearing and the Registrar shall arrange a hearing date as soon as practicable.

134 Appeals to Court of Appeal

Section 144 of the Summary Proceedings Act 1957 applies in respect of a decision of the High Court under section 126 as if the decision has been made under section 107 of the Summary Proceedings Act 1957.

Part 9 Emergencies

135 Interpretation

In this Part, unless the context otherwise requires,---

emergency means---

(a) actual or imminent danger to human health or safety; or

(b) a danger to the environment or chattels so significant that immediate action is required to remove the danger---

arising from a hazardous substance or new organism

enforcement officer includes any member of the police, and any Chief Fire Officer or person exercising the powers of a Chief Fire Officer under section 28 or section 28A or section 29 of the Fire Service Act 1975.

136 Declaration of emergency

(1) Where any enforcement officer has reasonable grounds to believe that---

(a) there is an emergency; and

(b) either,---

(i) no state of emergency has been declared under the Civil Defence Emergency Management Act 2002; or

(ii) the emergency is not being dealt with under the Fire Service Act 1975; or

(iii) no emergency has been declared under section 144 of the Biosecurity Act 1993; or

(iv) no other enforcement officer has declared an emergency under this Act; and

(c) all or any of the powers set out in section 137 should be exercised in order to---

(i) enter any premises or dwelling; or

(ii) remove the cause of the emergency; or

(iii) stabilise the situation to limit the actual or likely adverse effects of the emergency; or

(iv) protect the health and safety of people, chattels, or the environment from the actual or likely adverse effects of any emergency,---

the enforcement officer may declare a hazardous substance or new organisms emergency.

(2) A hazardous substance or new organisms emergency shall be declared by the enforcement officer by---

(a) identifying himself or herself to any persons in the vicinity; and

(b) stating his or her authority to exercise emergency powers; and

(c) announcing the nature of the emergency and the area likely to be affected.

(3) Every enforcement officer shall notify---

(a) the person who appointed him or her as an enforcement officer, if he

or she was appointed under section 98; and

(b) the Authority---

of every occasion on which a hazardous substances or new organisms emergency is declared by that officer under this section.

(4) Any emergency declared under this section shall cease---

(a) 48 hours after the time of declaration; or

(b) when a state of emergency is declared under the Civil Defence Emergency Management Act 2002; or

(c) when the emergency is treated by a Chief Fire Officer as an emergency under the Fire Service Act 1975; or

(d) when an emergency is declared under section 144 of the Biosecurity Act 1993,---

whichever is the sooner.

(5) Where the conditions which caused the emergency to be declared under subsection (1) still exist 48 hours after the time of declaration of the emergency and the emergency has not been treated as an emergency under any of the provisions in paragraphs (b), (c), and (d) of subsection (4), a further declaration of emergency may be made under this Act and the provisions of subsection (4) shall apply accordingly.

(6) Any emergency declared under this section shall have effect over the area specified under subsection (2)(c).

Section 136(1)(b)(i): substituted, on 1 December 2002, by section 117 of the Civil Defence Emergency Management Act 2002 (2002 No 33).

Section 136(4)(b): substituted, on 1 December 2002, by section 117 of the Civil Defence Emergency Management Act 2002 (2002 No 33).

137 Emergency powers

(1) When a hazardous substance or new organisms emergency has been declared under section 136, any enforcement officer may---

(a) enter any premises or any dwelling at any time without complying with the provisions of section 103 or section 119:

(b) exercise any of the powers set out in section 103:

(c) exercise any of the powers set out in section 119(5):

(d) direct any person to stop any activity which may contribute to the emergency:

(e) request any person, either verbally or in writing, to take any action to prevent or limit the extent of the emergency:

(f) direct any person to leave any place in the vicinity of the emergency:

(g) direct any person to refrain from entering the vicinity of the emergency:

(h) requisition any property for use in the emergency:

(i) destroy any property or any other thing in order to prevent or limit the extent of the emergency:

(j) secure the site for up to 24 hours following the decision of the enforcement officer that the immediate danger is past.

(2) If an enforcement officer enters any private property pursuant to the powers conferred by subsection (1), he or she shall advise the occupier of the property as soon as practicable.

Section 137(1)(b): expression substituted, on 7 May 1999, by section 15(e) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

138 Compensation for property requisitioned or destroyed

(1) Where any enforcement officer or any person acting at the request of an enforcement officer, made under section 137(1)(e)---

(a) requisitions any property from any person for use in an emergency; or

(b) destroys any property in order to prevent or limit the extent of any emergency,---

there shall be payable, on written application by any person having an interest in the property, by the organisation whose chief executive appointed the enforcement officer or (where the enforcement officer is a member of the police) out of money appropriated by Parliament for the purpose, reasonable compensation for any loss or damage caused by the requisition or destruction of the property.

(2) Compensation shall not be payable under this section to any person who caused or contributed substantially to the emergency which brought about the requisition or destruction.

(3) Where there is any dispute as to the entitlement of any person to compensation under this section, or as to the amount of such compensation, or as to the liability of the Crown or any other person or organisation to pay any such compensation, the matter shall be determined by any court of competent jurisdiction.

139 Protection of enforcement officers and persons

No action or proceedings shall be brought against any enforcement officer or any person acting at the request of an enforcement officer made under section 137(1)(e), in respect of any actions taken by any such officer or person under this Part where that officer or that person has acted in good faith and with

reasonable care.

Part 10
Miscellaneous provisions

140 Regulations

(1) Subject to section 141, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) prescribing organisms as genetically modified organisms for the purpose of this Act:

(b) prescribing organisms as organisms which are not genetically modified for the purposes of this Act:

(ba) prescribing organisms that are not new organisms for the purposes of this Act:

(c) prescribing or providing for controls on compressed gases, whether intrinsically hazardous or not:

(d) prescribing the method of estimating the quantity of any substance or organism to be imported or manufactured:

(e) prescribing controls for any hazardous substance to avoid or mitigate any adverse effects on the physical or chemical nature of the environment:

(f) prescribing controls to avoid or mitigate illness or injury to people or damage to the environment or chattels from any hazardous substance:

(fa) 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:

(fb) 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 requirements to be met by a laboratory, and during the storage, importation, or transportation of any hazardous substance, for the purposes of section 33:

(h) 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:

(i) prescribing those offences under this Act that constitute infringement offences against this Act:

(j) prescribing forms of infringement notices, and prescribing the infringement fees (not exceeding \$1,000) for each infringement offence, which may be different fees for different offences:

(k) prescribing countries or organisations for the purposes of sections 28, 31, 34, and 40:

(l) prescribing information to be provided with any application for approval:

(m) prescribing forms for the purposes of this Act:

(n) prescribing documentation to be issued in respect of any hazardous substance before importation into New Zealand:

(o) prescribing qualifications for---

(i) enforcement officers appointed under section 100:

(ii) test certifiers appointed under section 84:

(p) prescribing controls for by-products with hazardous properties, which result from the manufacture of any substance:

(q) prescribing damage as serious environmental damage for the purposes of section 144:

(r) prescribing restrictions and prohibitions on the sale of specified fireworks:

(s) providing for such other matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

(2) Regulations may only be made under subsection (1)(p) where the Authority has notified the Minister that the Authority has reviewed the controls on any by-product with hazardous properties under this Act or any other Act and has satisfied itself that those controls are not sufficient to achieve the purposes of this Act.

(2A) Regulations may be made under subsection (1)(ba) only if the Minister has considered---

(a) whether the organism has formed a self-sustaining population in New Zealand; and

(b) whether any person is attempting to manage, control, or eradicate the organism under any Act.

(3) Any regulations made under this Act may provide for controls by reference to controls in regulations under any other Act:

(4) Any regulations made under subsection (1) may require any person to obtain a test certificate at any specified time certifying that a specified requirement has been met.

(5) Regulations made under subsection (1)(c) may prescribe or provide for controls on any compressed gases, whether or not the properties of any gas that is compressed are intrinsically hazardous, and those compressed gases must all be treated as hazardous substances for the purposes of Part 7 regardless of their properties.

Section 140(1)(ba): inserted, on 30 October 2003, by section 53(1) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 140(1)(c): words added, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 140(1)(fa): inserted, on 30 October 2003, by section 53(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 140(1)(fb): inserted, on 30 October 2003, by section 53(2) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 140(1)(g): substituted, on 2 July 2001, by section 34(1) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 140(1)(k): expression substituted, on 7 May 1999, by section 15(f) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

Section 140(2A): inserted, on 30 October 2003, by section 53(3) of the Hazardous Substances and New Organisms Amendment Act 2003 (2003 No 54).

Section 140(4): added, on 2 July 2001, by section 34(2) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 140(5): added, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

140A Persistent organic pollutants

(1) The Governor-General may, by Order in Council, amend Schedule 2A to---

(a) add any hazardous substance that exhibits the characteristics of a persistent organic pollutant as specified in the Stockholm Convention:

(b) include or amend a use for a persistent organic pollutant:

(c) include or amend a date on the close of which a use included under paragraph (b) ceases to be allowed.

(2) An Order in Council made under subsection (1) must be consistent with New Zealand's obligations under the Stockholm Convention.

Section 140A: inserted, on 23 December 2004, by section 15 of the Hazardous

Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

140B Schedule 1AA may be amended or substituted

The Governor-General may, by Order in Council,---

(a) amend Schedule 1AA by making any amendments to the text of the Stockholm Convention set out in the schedule as are required to bring it up to date:

(b) revoke Schedule 1AA and substitute a new schedule setting out in an up-to-date form the text of the Stockholm Convention.

Section 140B: inserted, on 23 December 2004, by section 15 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

141 Procedure for making Orders in Council

(1) Before making any recommendation for the purpose of making any Order in Council under this Act (other than any Order in Council or part of an Order in Council made under section 9(1), section 55(7), section 140(1)(i), (j), (m), or (n), or section 140A, or section 160(1)(b), (c), or (d)), the Minister shall---

(a) request the Authority to---

(i) do everything reasonably practicable on its part to advise all persons, who or which in its opinion may be affected by any Order in Council made in accordance with the recommendation, of the proposed terms of the Order in Council; and

(ii) give such persons a reasonable opportunity to make submissions on them to the Authority; and

(iii) advise the Minister of any submissions received, and any comments the Authority wishes to make on the submissions or the proposed Order in Council; and

(b) request the Authority to advise on the best international practices and standards for the safe management of hazardous substances and new organisms,---

and the Minister shall have regard to those submissions and comments received in accordance with paragraph (a) and to the advice received in accordance with paragraph (b).

(2) Subsection (1)(a) shall not apply in respect of any Order in Council if the Minister considers it is desirable in the public interest that the Order in Council be made urgently.

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

Section 141(1): words inserted, on 23 December 2004, by section 16 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

Section 141(1): words substituted, on 7 May 1999, by section 15(1)(g) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

141A Incorporation of material by reference

(1) The following material may be incorporated by reference into any regulations or code of practice:

(a) standards, requirements, or recommended practices of international organisations:

(b) any document or other material that, in the opinion of the Minister (in the case of regulations) or the Authority (in the case of a code), is too large or impractical to be printed as part of the regulations or code.

(2) Any such material may be so incorporated in regulations or a code of practice either in whole or in part, and either unmodified or with such additions or variations as are specified in the regulations or code.

(3) Any material incorporated in regulations or a code of practice by reference under subsection (1) (as it existed on the date of the inclusion but with such additions or variations (if any) as are specified in the regulations or code) is to be regarded for all purposes as forming part of the regulations or code.

(4) If any material is incorporated in regulations or a code of practice by reference under subsection (1), the Minister (in the case of regulations) or the Authority (in the case of a code) must ensure that, so long as the material remains so incorporated, copies of the material are available---

(a) for inspection by members of the public free of charge; and

(b) for purchase by members of the public at a reasonable price---

at such place or places as the Minister or the Authority appoints.

Section 141A: inserted, on 2 July 2001, by section 35 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

142 Relationship to other Acts

(1) Nothing in this Act shall affect the requirements of the Biosecurity Act 1993 in relation to any organism.

(2) Every person exercising a power or function under the Resource Management Act 1991 relating to the storage, use, disposal, or transportation of any hazardous substance shall comply with the provisions of this Act and with regulations and notices of transfer made under this Act.

(3) Nothing in subsection (2) shall prevent any person lawfully imposing more stringent requirements on the storage, use, disposal, or transportation of

any hazardous substance than may be required by or under this Act where such requirements are considered necessary by that person for the purposes of the Resource Management Act 1991.

(4) Nothing in this Act shall apply to any resource consent, being---

(a) a land use consent relating to the storage, use, disposal, or transportation of any hazardous substance; or

(b) a coastal permit to do something that would otherwise contravene section 15 of the Resource Management Act 1991; or

(c) a discharge permit,---

where that resource consent was granted before the coming into force of any regulations made under this Act (other than regulations made under Parts 11 to 16) until such time as the conditions on the resource consent are reviewed in accordance with section 128 of the Resource Management Act 1991.

(5) For the purposes of this section, resource consent has the same meaning as in the Resource Management Act 1991.

(6) Any controls prescribed under any other Act for any hazardous substance shall not contravene the provisions of regulations made under sections 75 and 76 unless---

(a) there is a provision in that other Act that expressly provides that controls made under that other Act for specified purposes may contravene the provisions of regulations made under this Act; and

(b) the controls are made for the purposes provided for in that Act.
Section 142(2): words substituted, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 142(3): words substituted, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

142A Exemptions from approval requirements

(1) Without limiting sections 160 and 160A, the Authority may, from time to time, grant exemptions from any controls that would otherwise attach to a substance on its approval by the Authority under Part 5.

(2) The Authority may grant an exemption under subsection (1) only if satisfied that---

(a) the adverse effects of the substance are being adequately managed; and

(b) the relevant requirements under Parts 11 to 16 continue to apply.

(3) An exemption under subsection (1) may---

(a) be granted to or in respect of 1 or more of the following:

- (i) any person or persons:
- (ii) any premises or class of premises:
- (iii) any substance or group of substances:

(b) be expressed to apply either particularly or generally.

(4) The Authority must notify an exemption granted under subsection (1) by---

(a) specifying the effect, period, and conditions of the exemption in a public notice; and

(b) if the exemption is granted to a person or in respect of any facility, notifying the person or the manager of the facility of the exemption.

(5) The Authority may determine the form of public notices and other notifications under subsection (4).

(6) This section expires on the expiry of Parts 11 to 16 and Schedule 7 in accordance with section 152, but exemptions granted under subsection (1) that have effect immediately before this section expires continue to have effect according to their tenor.

Section 142A: inserted, on 24 March 2004, by section 10 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

143 Notification of hazardous substances injuries

(1) In this section, hospital means a hospital care institution within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001.

(2) If any person, upon admission to a hospital, is found to be suffering from any injury caused by a hazardous substance, the person for the time being in charge of the hospital shall give notice of the injury to the Medical Officer of Health.

(3) The Medical Officer of Health shall ensure that information about any injury notified in accordance with subsection (2) (not being information which identifies any individual person) is supplied to the Minister of Health.

Section 143(1): substituted, on 1 October 2002, by section 58(1) of the Health and Disability Services (Safety) Act 2001 (2001 No 93).

144 Reporting of incidents

(1) Every person in charge of a substance involved in an incident resulting in serious harm to any person or serious environmental damage shall, unless an enforcement officer attended the incident or subsection (2) applies, report that incident to an enforcement officer.

(2) No person shall be obliged to report an incident to an enforcement officer under this Act where the incident is required to be reported under any other Act.

145 Ombudsmen Act 1975 amended

Repealed.

Section 145: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

146 Authority to be Crown entity

Repealed.

Section 146: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

147 Additional matters to be included in statement of intent

(1) The Authority shall include in its statement of intent under section 139 of the Crown Entities Act 2004:

(a) Repealed

(b) Repealed

(c) Repealed

(d) information on decisions under section 62:

(e) any new borrowings or financial leases, or similar liabilities that the Authority intends to incur during that year:

(f) a statement of the consideration given by the Authority when granting each approval of a hazardous substance of the reasons for and against imposing an environmental user charge as a control.

(2) Repealed.

(3) Every statement of intent shall be accompanied by a written statement by the Authority estimating the effect that the matters set out in the statement of intent are likely to have on the management and use of hazardous substances and new organisms in the period to which the statement of intent relates.

Section 147(1): words substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 147(1)(a): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 147(1)(b): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 147(1)(c): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 147(2): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 147(3): words substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

148 Additional reporting requirements

The annual report under section 150 of the Crown Entities Act 2004 must include the following additional matters:

(a) Repealed

(b) an assessment of the extent to which this Act has contributed to the health and safety of people and the environment, including an assessment of any reduction in the likelihood that hazardous substances or new organisms will adversely affect people or the environment:

(c) information showing the number and type of incidents caused by inadequate management of hazardous substances or new organisms:

(d) information on decisions under section 62:

(e) any other matters the Authority considers to be significant in the management and use of hazardous substances and new organisms, including the investigation and use of environmental user charges.

Section 148: words substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Section 148(a): repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

149 Amendments to other Acts

The enactments specified in Schedule 4 are hereby amended in the manner indicated in that schedule.

150 Repeals and revocations

(1) The enactments specified in Schedule 5 are hereby repealed.

(2) The regulations and orders specified in Schedule 6 are hereby revoked.

Part 11 Transitional provisions---General

151 Interpretation

In Parts 11 to 16, unless the context otherwise requires,---

aircraft has the same meaning as in section 2 of the Civil Aviation Act 1990

animal means any living stage of any member of the animal kingdom except human beings; and, in the case of any mammal, bird, fish, or reptile, includes the egg, or semen, or the carcass thereof

boat means every description of vessel used in navigation, not being a ship

carrier includes every person engaged in carrying goods for hire or reward by any mode of transport whether by land, water, or air

carry means to carry on a motor vehicle, vessel, aircraft, or hovercraft; and carriage has a corresponding meaning

container means any barrel, case, cylinder, drum, tank, tin, or other receptacle; and includes every package in or by which goods may be cased, covered, enclosed, contained, or packed; but does not include any overpack, freight container, cargo transport unit, or unit load device

hovercraft means a hovercraft as defined in section 2 of the Hovercraft Act 1971

label, in relation to a container, means any written, pictorial, or other descriptive matter marked on or affixed to the container; and to label and labelling have corresponding meanings

licence means a licence granted under this Part; and licensee has a corresponding meaning

lighter means any vessel, however propelled, used for the transport of goods between a ship at anchor offshore in any port, harbour, or roadstead and any other vessel or the quays, wharves, or shore of that port, harbour, or roadstead

master, in relation to any ship, means any person (except a pilot) having command or charge of the ship; and, in relation to any boat belonging to a ship, means the master of the ship; and, in relation to any other boat or to any lighter, means the person having command or charge of the boat

pack means to enclose in a container for the purpose of storage or sale

sell includes to barter; and also includes offering or attempting to sell, or having in possession for sale, or exposing, sending, or delivering for sale, or causing or allowing to be sold, offered, or exposed for sale; and also includes any disposal by way of gift (which includes the giving or distribution, in the course of business, as a sample or otherwise without charge), loan, prize, reward, or otherwise; and sale has a corresponding meaning

ship includes every description of vessel, whether used in navigation or in any way kept or used as a hulk or storeship or for any other purpose, and not propelled exclusively by oars.

152 Expiry of transitional provisions

(1) Parts 11 to 16 and Schedule 7 expire on the later of the following dates:

(a) the date that is 3 years after the commencement of those Parts:

(b) the date specified in the most recent Order in Council (if any) made under subsection (1A).

(1A) The Governor-General may, by Order in Council made at any time or times before the date that Parts 11 to 16 and Schedule 7 expire in accordance with subsection (1), specify a date on which those Parts and that schedule expire, but that date must not be more than 5 years after the commencement of those Parts.

(2) Upon the expiry of Parts 11 to 16 and Schedule 7, any substance or group of substances or any organism, to which those Parts or schedule apply, shall no longer be imported, manufactured, developed, field tested, or released except in accordance with an approval given by the Authority under Part 5.

(3) Any regulations made under section 160 shall continue in force following the expiry of Parts 11 to 16 and Schedule 7.

(3A) In the case of regulations made under section 160(1)(a), subsection (3) of this section applies despite the repeal of section 160(1)(a), (2), and (3) by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004.

(3B) Notices of transfer made under section 160A continue in force following the expiry of Parts 11 to 16 and Schedule 7.

(4) The regulations referred to in section 161 are revoked on the expiry of Parts 11 to 16 and Schedule 7.

Section 152(1): substituted, on 31 December 2000, by section 36(1) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 152(1A): inserted, on 31 December 2000, by section 36(1) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 152(3A): inserted, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 152(3B): inserted, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 152(4): substituted, on 31 December 2000, by section 36(2) of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

152A Expiry of transitional provisions in relation to persistent organic pollutants

(1) Parts 11 to 13 and Schedule 7 cease to apply on and from the commencement of---

(a) the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 to a hazardous substance that is a persistent organic

pollutant at the commencement of that Act:

(b) an Order in Council made under section 140A(1)(a) to a hazardous substance added to Schedule 2A by the Order in Council.

(2) On the expiry, under subsection (1), of Parts 11 to 13 and Schedule 7 in relation to a persistent organic pollutant, the persistent organic pollutant must no longer be imported or manufactured except in accordance with Part 5.

Section 152A: inserted, on 23 December 2004, by section 17 of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003 (2003 No 37).

153 Exemption in case of licence application

An application for any licence or permit under this Part may be granted by the Authority notwithstanding any noncompliance or contravention of any regulation or regulations which apply to any substance or organism under this Part, where the applicant satisfies the Authority that---

(a) the licence or permit will conform with the performance standards under this Act in respect of that substance or organism; and

(b) those performance standards manage the adverse effect or effects which that regulation or those regulations is or are intended to guard against.

154 Exemptions from regulations and provisions of Parts 11 to 16

(1) Without limiting the provisions of section 160 or section 160A, the Authority may from time to time grant an exemption from the requirements prescribed by any regulations referred to in sections 173, 174, 208, 219(1) and (4), 221, 253, and 255(3), which apply to any substance or organism under Parts 11 to 16.

(2) An exemption under subsection (1) shall only be granted where---

(a) the Authority is satisfied that the relevant performance standards under sections 75 and 76 can be, or are otherwise being, met; and

(b) the provisions of those regulations are inconsistent with the provisions of this Act in respect of that substance or organism.

(3) Any exemption granted under subsection (1) may---

(a) be granted---

(i) to any person who has made an application under this Part or is the holder of a licence or permit granted under this Part:

(ii) in respect of any premises to which an application under this Part or a licence or permit granted under this Part applies:

(b) apply either particularly or generally:

(c) be for a specified period:

(d) be in respect of part of or the whole of any particular regulation or regulations.

(4) Without limiting the provisions of subsection (1), the Authority may from time to time grant exemptions from any requirements prescribed by any provision of Parts 11 to 16 that apply to any substance or group of substances.

(5) The Authority may grant an exemption under subsection (4) only if satisfied that the risks of the substance or group of substances are being adequately managed.

(6) Subsection (3), with the necessary modifications, applies to exemptions granted under subsection (4).

(7) The Authority must notify an exemption granted under subsection (1) or subsection (4) in relation to a substance by---

(a) specifying the effect, period, and conditions of the exemption in a public notice; and

(b) if the exemption is granted to a person or in respect of any facility, notifying the person or the manager of the facility of the exemption.

(8) The Authority may determine the form of public notices and other notifications under subsection (7).

Section 154 heading: words added, on 24 March 2004, by section 11(1) of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 154(1): words inserted, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 154(4): added, on 24 March 2004, by section 11(2) of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 154(5): added, on 24 March 2004, by section 11(2) of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 154(6): added, on 24 March 2004, by section 11(2) of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 154(7): added, on 24 March 2004, by section 11(2) of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 154(8): added, on 24 March 2004, by section 11(2) of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

155 Applications made under transitional provisions

(1) Where any provision of Parts 11 to 16---

(a) requires any person to obtain from the Authority any permission; or

(b) provides that an activity cannot be carried out without a permission from the Authority,---

any application for such a permission shall be made in such form as the Authority may require and shall be accompanied by any fee set in accordance with section 21.

(2) When considering an application made under this section, the Authority shall consider the likely adverse and beneficial effects of the substance to which the application relates on---

(a) human health and safety; and

(b) ecosystems (with or without bioaccumulation); and

(c) the environment and chattels.

(3) On receipt of an application for a permission under this section, the Authority may grant or refuse to grant the permission as it thinks fit.

(4) Where the Authority grants a permission under this section it may impose such conditions on the permission as it thinks fit.

(5) The provisions of subsections (3) and (4) shall be subject to any specific provision in Parts 12 to 16 which---

(a) provides criteria which must be satisfied before a permission is granted or refused; or

(b) limits the types of conditions that may be imposed on a permission; or

(c) provides that conditions may only be imposed on a permission for specific purposes.

(6) Every permission granted by the Authority under this section shall be in writing and in such form as the Authority thinks fit.

(7) Any permission granted under this section may be varied by the Authority at any time by giving notice in writing to the holder of the permission; and subsections (2) and (5) shall apply in respect of any such variation.

(8) Where the Authority---

(a) refuses to grant a permission under this section; or

(b) grants a permission under this section subject to conditions; or

(c) varies a permission under this section,---

the applicant for the permission may appeal against that decision to the District Court.

(9) Where an applicant appeals against a decision under subsection (8), the provisions of Part 8 shall apply, with all necessary modifications, as if the appeal were an appeal under section 126.

(10) In this section, and in section 158 permission means any permit, licence, approval, consent, or other form of permission which the Authority is empowered to grant under Parts 11 to 16.

156 Offences against Parts 11 to 16

(1) Every person commits an offence against this Act who contravenes or permits a contravention of---

(a) any of the regulations, orders, or notices referred to in sections 173, 174, 208, 219(1) and (4), 221, 253, and 255(3):

(b) any term or condition of any permission referred to in sections 165(1), (2), or (3), 166(6), 170(4), 188(6), 199(5), 214(4) or (5), 217(4), 225(5) or (8), 227(4) or (7), 231(6) or (7), 232(3) or (4), 236(5) or (9), 242(3) or (5), 244(5) or (6), or 245(3):

(c) any of sections 166(1), (2), (3), and (4), 167, 170(2), 176, 185 to 187, 188(1), (2), and (5), 189, 190(1), (2), (3), and (6), 191, 192, 193(1), 206, 207(1) and (2), 211(1) and (2), 212, 213, 214(1) and (2), 215, 216, 218(3), 225(1), 227(1), 228(1), 229, 231(1), 232(1), 233(1) and (2), 234, 235(1), 236(1), (2), and (3), 237 to 239, 242(1), 243(1), 244(2) and (4), 245(1) and (2), 246, 247(2) and (3), 248(1), 249(1), 250(1) and (3), 251(1), and 252(1):

(d) any term or condition of any permission granted for the purposes of Parts 11 to 16.

(2) The provisions of sections 115 and 116, shall apply, with all necessary modifications, to an offence against this section.

Section 156(1)(b): substituted, on 7 May 1999, by section 13 of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

157 Defences

(1) In any prosecution for an offence under section 156, the defendant may raise any applicable defence in section 115 or section 117.

(2) Without limiting the generality of subsection (1), where the action or event constituting the offence was contravening section 192, the following provisions shall apply:

(a) without limiting the meaning of the expression reasonable excuse and subject to paragraph (c) of this subsection, the defendant has a reasonable excuse if the action or event to which any prosecution relates was carried out by---

(i) a person licensed or otherwise authorised under Part 13 or under the Toxic Substances Regulations 1983 to sell the poison or to use or otherwise to be in possession of it, and the action or event was necessary for the business, calling, or purpose for which the person is so licensed or otherwise authorised; or

(ii) any other person to whom the poison may lawfully be sold and, in any case where the poison was sold to that person pursuant to section 185(c) to (e), was necessary for the purpose of the sale of that poison to that person; or

(iii) a carrier or an employee of a carrier, and was necessary for the business of that carrier; or

(iv) a person in the service of the Crown or a Crown entity (as defined in section 7 of the Crown Entities Act 2004) and was necessary for the performance of that person's official duties:

(b) the fact that the defendant did not know that the substance to which the prosecution relates was a deadly poison or a dangerous poison (as the case may be) shall not by itself be a reasonable excuse:

(c) the grant to the defendant of an exemption under section 154 shall be a defence to any prosecution for any action or event to which that exemption relates.

(3) For the purposes of subsection (2), poison, deadly poison, and dangerous poison have the same meanings as in section 183(1).

Compare: 1979 No 27 s 31

Section 157(2)(a)(iv): words substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

158 Suspension and cancellation of licences

(1) Where---

(a) a prosecution for an offence under section 156 is commenced against the holder of any permission (as defined in section 155(10)) granted under Parts 11 to 16; or

(b) any holder of a permission fails to comply with any lawful requirement of the Authority,---

the Authority may, if it thinks fit, suspend the permission until the prosecution has been disposed of or the requirement has been met.

(2) Where the holder of any such permission granted under Parts 11 to 16 is convicted of an offence against this Act or against any regulations, the Authority, if it thinks fit, may cancel the permission.

(3) The holder of a permission may appeal against the decision of the Authority to suspend or cancel the permission under this section to the

District Court; and Part 8 shall apply to any such appeal, with all necessary modifications, as if the appeal were an appeal under this Act.

Compare: 1974 No 26 s 13

Section 158(3): words omitted, on 7 May 1999, by section 15(h) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

159 Continuation of Pesticides Board and Toxic Substances Board

(1) Notwithstanding the repeal of the Pesticides Act 1979 and the Toxic Substances Act 1979, the Pesticides Board and the Toxic Substances Board shall continue to exist in accordance with the provisions of this section.

(2) The Pesticides Board shall---

(a) continue to consist of the members holding office under section 12 of the Pesticides Act 1979 immediately before the date of commencement of this Act; and

(b) have the function of considering and determining applications made under the Pesticides Act 1979 before the date of commencement of this Act; and

(c) have all such powers, rights, authorities, and privileges (including the right to delegate any of its powers to any person) as may be reasonably necessary or expedient to enable it to carry out its function.

(3) The provisions of sections 14 to 20 of the Pesticides Act 1979 shall continue to apply, notwithstanding the repeal of those sections by this Act, with all necessary modifications, to the Pesticides Board.

(4) The Toxic Substances Board shall---

(a) continue to consist of the members holding office under section 11 of the Toxic Substances Act 1979 immediately before the date of commencement of this Act; and

(b) have the function of considering and determining applications made under the Toxic Substances Act 1979 before the date of commencement of this Act; and

(c) have all such powers, rights, authorities, and privileges (including the right to delegate any of its powers to any person) as may be reasonably necessary or expedient to enable it to carry out its function.

(5) The provisions of sections 13 to 18 of the Toxic Substances Act 1979 shall continue to apply, notwithstanding the repeal of those sections by this Act, with all necessary modifications, to the Toxic Substances Board.

(6) No member of the Pesticides Board or of the Toxic Substances Board shall be entitled to any money or other benefit by way of compensation, or a claim for loss of remuneration, or for reimbursement of expected allowances, arising out of the abolition of either of those Boards.

160 Regulations relating to transitional provisions

(1) Without limiting the provisions of section 140, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) Repealed

(b) amending or revoking any of the regulations, orders, or notices referred to in sections 173, 174, 208, 219(1) and (4), 221, 253, and 255(3):

(c) providing that a substance or group of substances, the use, importation, or manufacture of which is prohibited under any enactment or regulation made under any enactment repealed by this Act, shall be deemed to have been assessed and declined an approval for importation or manufacture under section 29 and also providing for the disposal of that substance and any other matters related to that disposal:

(d) providing that an organism or organisms whose importation or introduction is prohibited under any enactment or regulation made under any enactment repealed by this Act shall be deemed to be a prohibited organism under section 50:

(e) prescribing courses of study or examinations for qualification to apply for a licence as an approved operator for the purposes of section 177(b)(i).

(2) Repealed.

(3) Repealed.

Section 160(1)(a): repealed, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 160(2): repealed, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 160(3): repealed, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

160A Notices of transfer relating to transitional matters

(1) The Authority may from time to time, by notice in the Gazette, issue a notice of transfer relating to a certain substance or group of substances that are lawfully used for any purpose or purposes.

(2) A notice of transfer may do 1 or more of the following:

(a) provide that the substance or group of substances are no longer subject to the provisions of Parts 11 to 16:

(b) deem the substance or group of substances to have been assessed and approved by the Authority under section 29 for the purpose or purposes

specified in the notice:

(c) deem the substance or group of substances to have the hazard classifications specified in the notice.

(3) In every notice of transfer under this section, the Authority must specify 1 or more hazard classifications (as prescribed by regulations made under section 74) for each substance or group of substances concerned after considering the intrinsic properties and degree of hazard of the substance or group of substances.

(4) Unless varied under section 160B, the controls prescribed for each substance or group of substances (as so classified) apply to the substance or group of substances.

(5) However, if the substance is a compressed gas and the properties of the gas that is compressed are not intrinsically hazardous,---

(a) an approval under this Act is not required for the compressed gas; and

(b) the requirement in subsection (3) to specify a hazard classification does not apply to the compressed gas; and

(c) subsection (6)(a) applies as if, for the words "hazardous substances", there were substituted the words "compressed gases"; and

(d) unless varied under section 160B, the relevant controls in regulations made under section 140(1)(c) apply to the compressed gas.

(6) Before issuing a notice of transfer under this section, the Authority must---

(a) consider the best international practices and standards for the safe management of hazardous substances; and

(b) do everything reasonably practicable on its part to advise all persons, who in its opinion may be affected by the notice of transfer, of the proposed terms of the notice of transfer; and

(c) give those persons a reasonable opportunity to make submissions and comments to the Authority on the proposed terms of the notice of transfer; and

(d) consider all submissions and comments received.

(7) Section 141A, with the necessary modifications, applies for the purposes of a notice of transfer under this section.

(8) A notice of transfer under this section is a regulation for the purposes of the Regulations (Disallowance) Act 1989, but is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.

Section 160A: inserted, on 24 March 2004, by section 12 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

160B Controls may be imposed for purposes of notice of transfer

(1) Before giving a notice of transfer under section 160A, the Authority may exercise the powers conferred by subsection (2) to enable it to address the risks that the Authority considers relevant.

(2) For the purpose of subsection (1), the provisions of sections 77 and 77A are deemed to be incorporated in this section and, subject to subsection (4), apply---

(a) with the necessary modifications; and

(b) as if every reference in those sections to substance included a group of substances.

(3) Before varying or deleting any controls for the purpose of subsection (1), the Authority must consider the effects of the variation or deletion on all users and in doing so must have regard to the desirability of controlling substances consistently for all users.

(4) Section 77A(4) does not apply for the purpose of subsection (1) if---

(a) the control being varied on transfer relates to a previous management practice; or

(b) the control being deleted on transfer existed under Parts 11 to 16 but did not apply to the substance concerned, or did not exist under those Parts.

Section 160B: inserted, on 24 March 2004, by section 12 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

161 Regulations saved

Regulations referred to in sections 173, 174, 208, 219(1) and (4), 221, 253, and 255(3); and which have not been revoked by this Act may be amended or revoked by regulations made under section 160(1)(b); but until so revoked shall continue in force as if the enactments under which they were made had not been repealed by this Act.

162 Reassessment of substances and organisms

Where any substance or organism to which Parts 11 to 16 apply is reassessed in accordance with sections 62 and 63, the provisions of Parts 11 to 16 shall no longer apply to that substance or organism.

Part 12
Transitional provisions---Pesticides

163 Interpretation

In this Part, unless the context otherwise requires,---

controlled pesticide means a pesticide specified in Part A of Schedule 7

livestock means cattle, sheep, horses, swine, goats, deer, poultry, bees, fish, and other animals kept for commercial or domestic purposes

manufacturer, in relation to a pesticide means the person who, as owner, packs the pesticide, or causes it to be packed, for sale; and to manufacture has a corresponding meaning

pesticide means any substance to which this Part applies

proprietor means,---

(a) in relation to a pesticide manufactured in New Zealand, the manufacturer of the pesticide; and

(b) in relation to a pesticide manufactured elsewhere, the importer of the pesticide.

Compare: 1979 No 26 s 2

164 Application of this Part

(1) Subject to subsections (2) and (3), this Part shall apply to those pesticides which, before the date of commencement of this Act, were---

(a) registered pesticides under section 21 of the Pesticides Act 1979; or

(b) pesticides subject to an experimental use permit under section 25 of the Pesticides Act 1979; or

(c) pesticides subject to Ministerial exemption under section 8 of the Pesticides Act 1979.

(2) Where, before the date of commencement of this Act, any pesticide was subject to Ministerial exemption under section 8 of the Pesticides Act 1979, it shall be exempt only from such of the provisions of this Part as are equivalent to those provisions of the Pesticides Act 1979 from which it was exempted under the notice of Ministerial exemption.

(3) This Part shall not apply to any pesticide included in any regulations made under section 160(1)(c) or section 160A.

Section 164(3): words substituted, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

164A Protection of information

The protection given to information by Part 3A of the Pesticides Act 1979 continues for the period specified in that Part as if that Act had not been repealed by this Act, and during that period, any information protected by that

Part may not be used for the purposes of determining whether to grant an application under this Act.

Section 164A: inserted, on 2 July 2001, by section 38 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

165 Sale, importation, and use of pesticides

(1) Where, before the date of commencement of this Act, any pesticide was a registered pesticide under Part 3 of the Pesticides Act 1979, the proprietor of that pesticide may import, sell, or apply for reward, that pesticide on the same terms and conditions as would have applied if the Pesticides Act 1979 had not been repealed.

(2) Where, before the date of commencement of this Act, the registration of any pesticide under the Pesticides Act 1979 was subject to restricted use under section 24 of that Act,---

(a) the provisions of section 24(1) of that Act shall continue to apply to the use of that pesticide notwithstanding their repeal by this Act; and

(b) every reference in that section to the Board shall be deemed to be a reference to the Authority.

(3) Where, before the date of commencement of this Act, any pesticide was subject to an experimental use permit with a condition permitting sale of the pesticide granted under section 25 of the Pesticides Act 1979,---

(a) subject to paragraph (b) of this subsection, that permit shall continue to have effect under this section subject to such terms and conditions as were prescribed at the time it was granted; and

(b) the permit shall remain in force for a period not exceeding 3 years from the date it was granted unless that period is extended by the Authority; and

(c) the Authority may cancel the permit if it is satisfied---

(i) that the terms and conditions on and subject to which it was granted are being or have been violated; or

(ii) that the continued use of that pesticide is likely to have a significant adverse effect on the environment.

(4) Where an experimental use permit is cancelled under subsection (3)(c), the holder of the permit may appeal against the decision to cancel the permit to the High Court.

(5) Notwithstanding its repeal by this Act, section 70(2), (3), (5), and (6) of the Pesticides Act 1979 shall apply, with all necessary modifications, to every appeal under subsection (4) as if---

(a) the appeal was made under subsection (1) of that section; and

(b) every reference in that section to the Board was a reference to the

Authority.

(6) Where, before the date of commencement of this Act, any pesticide was subject to an experimental use permit other than a permit to which subsection (3) applies granted under section 25 of the Pesticides Act 1979,---

(a) the pesticide to which the permit relates shall be deemed to be a hazardous substance, and the permit shall be deemed to be an approval to import or manufacture that substance in containment granted by the Authority under section 32; and

(b) the provisions of this Act shall apply accordingly.

(7) Where, before the date of commencement of this Act, any person had applied for registration of a pesticide under section 22 of the Pesticides Act 1979, that application may be continued and determined in all respects (including any subsequent right of appeal) under the Pesticides Act 1979 as if this Act had not been enacted.

(8) Where, before the date of commencement of this Act, any person had been granted an experimental use permit to which subsection (3) applies under section 25 of the Pesticides Act 1979, any application for registration of the pesticide to which that permit relates shall be---

(a) made under section 22 of the Pesticides Act 1979; and

(b) determined in all respects (including any subsequent right of appeal) under the Pesticides Act 1979 as if this Act had not been enacted.

(9) Where, before the date of commencement of this Act, any person had made an application for an experimental use permit under section 25 of the Pesticides Act 1979 and the hearing of that application had not commenced,---

(a) that application shall be deemed, for the purposes of section 30, to be an application for approval to import or manufacture the substance to which that application relates in containment; and

(b) the provisions of this Act shall apply accordingly.

(10) Where, before the date of commencement of this Act, any person had made an application for an experimental use permit under section 25 of the Pesticides Act 1979, other than an application to which subsection (9) of this section applies, that application may be continued and determined in all respects (including any subsequent right of appeal) under the Pesticides Act 1979 as if this Act had not been enacted.

(11) Where an application to which subsection (10) applies is granted and is subject to a condition permitting sale of the pesticide, that permit shall be deemed to have been granted before the date of commencement of this Act and the provisions of subsection (3) shall apply accordingly.

(12) Where an application to which subsection (10) applies is granted (other than an application to which subsection (11) applies), that permit shall be deemed to have been granted before the date of commencement of this Act and the provisions of subsection (6) shall apply accordingly.

Compare: 1979 No 26 ss 21, 22, 25

166 Labelling

(1) No person shall sell any pesticide otherwise than in a container to which is attached a label that has been approved by the Authority.

(2) No person shall alter or modify any label approved under this section otherwise than with the approval of the Authority.

(3) No person shall remove or deface any label approved under this section and attached to any container of the pesticide otherwise than in accordance with any directions of the Authority.

(4) No person shall apply or otherwise use any pesticide in contravention of, or otherwise than in accordance with, any mandatory direction required to be shown on any label before the date of commencement of this Act in accordance with section 38(1)(e) of the Pesticides Act 1979.

(5) When the Authority is satisfied that any label is in conformity with the provisions of this Part, it shall notify the proprietor in writing that the label has been accepted.

(6) Where, before the date of commencement of this Act, any label had been accepted under section 38 of the Pesticides Act 1979, that label shall be deemed to be approved by the Authority in relation to the pesticide to which it relates in accordance with the same terms and conditions on which it was accepted under that Act.

(7) The Authority (in consultation with the Minister of Agriculture and the Minister of Forestry) may withdraw its approval of any label and approve another label in respect of a pesticide by giving notice in writing to the proprietor of that pesticide.

(8) Where, before the date of commencement of this Act, any person had applied for---

(a) registration of a pesticide under the Pesticides Act 1979; or

(b) a permit under section 25 of the Pesticides Act 1979---

but no label had been approved in respect of that pesticide under section 38 of that Act, the approval of any such label may be continued and determined in all respects (including any subsequent right of appeal) under the Pesticides Act 1979 as if this Act had not been enacted.

(9) The granting or declining of an application to which subsection (8) applies shall constitute the granting or declining of an application by the Authority for the purposes of this Part, notwithstanding that all the requirements of this Part or of Part 11 in relation to that application and determination may not have been complied with.

Compare: 1979 No 26 s 38

167 Advertisements

(1) Subject to subsection (2), no reference shall be made in any advertisement of a pesticide to the registration of the pesticide except a statement that it had,---

(a) before the date of commencement of this Act, been registered under the Pesticides Act 1979; or

(b) been registered under section 165(7).

(2) Where a pesticide had been registered for restricted uses under section 24 of the Pesticides Act 1979, every advertisement of that pesticide shall contain a statement to that effect and such other statement as the Authority may direct.

(3) No advertisement shall be made for a pesticide---

(a) that is not registered under this Part; or

(b) the use of which is, for the time being, subject to an experimental use permit.

Compare: 1979 No 26 s 40

168 Review and revocation of registration

(1) The Authority may review---

(a) the registration of any pesticide registered under this Part; and

(b) the registration of any pesticide registered under the Pesticides Act 1979 by virtue of the provisions of section 165(7) of this Act.

(2) Where the registration of a pesticide is reviewed under subsection (1), the Authority shall give the proprietor reasonable notice in writing of the review together with a reasonable opportunity to make submissions to the Authority in respect of that review.

(3) Where the Authority, after considering any representations or submissions made to it by or on behalf of the proprietor, is satisfied that the continued use of any registered pesticide is likely to have a significant adverse effect on human health or the environment, the Authority (in consultation with the Minister of Agriculture and the Minister of Forestry) may---

(a) revoke the registration of the pesticide by notice in writing to the proprietor; or

(b) allow the registration to continue, subject to such terms and conditions as the Authority may specify.

(4) Where the registration of a pesticide is revoked or continued subject to terms and conditions under subsection (3), the holder of the permit may appeal against the decision to revoke the registration or impose terms and conditions

to the High Court.

(5) Notwithstanding its repeal by this Act, section 70(2), (3), (5), and (6) and sections 71 to 74 of the Pesticides Act 1979 shall apply, with the necessary modifications, to every appeal under subsection (4) of this section as if---

(a) the appeal were made under subsection (1) of that section:

(b) every reference in that section to the Board was a reference to the Authority.

Compare: 1979 No 26 ss 28, 29, 70

169 Transfer of proprietors' rights

(1) Where, during the period of registration of a pesticide, the proprietor ceases to be the manufacturer or the importer of that pesticide, the proprietor shall notify the Authority in writing of that fact.

(2) Upon receipt of an application by a person who has acquired such rights in respect of a pesticide as would have entitled that person to apply for registration of the pesticide under the Pesticides Act 1979 if this Act had not been enacted, the Authority may amend the register kept under section 172 of this Act to show that person as the present proprietor of that pesticide.

(3) On the amendment of the register under subsection (2), the person shown in the register as the proprietor of a pesticide shall, from the date of the amendment, be deemed in all respects to be the proprietor of the pesticide for the purposes of this Part.

Compare: 1979 No 26 s 32

170 Sale of pesticides in bulk

(1) Notwithstanding the provisions of section 166, the Authority may permit a person to sell any registered pesticide otherwise than in containers if it is satisfied---

(a) that the pesticide may be more conveniently, economically, and safely sold and delivered in bulk; and

(b) that the pesticide will not be reformulated before application.

(2) Every person who sells (otherwise than in a package) any pesticide in respect of which a permit has been granted under this section, shall deliver to the purchaser with each lot sold an invoice certificate which shall---

(a) be in duplicate; and

(b) be signed by the seller; and

(c) state that the permit required by this section has been granted; and

(d) set out the particulars required to be shown on the label approved

by the Authority in respect of the registration of that pesticide.

(3) Where any certificate is delivered with any pesticide under subsection (2), the certificate shall, for the purposes of this Act, be deemed to be the label of that pesticide.

(4) Where, before the date of commencement of this Act, any person had obtained a permit under section 37 of the Pesticides Act 1979, that permit shall be deemed to be a permit granted by the Authority for the purposes of this section.

Compare: 1979 No 26 s 37

171 Warranties

(1) In every sale or contract for the sale of any pesticide there shall be implied a warranty by the proprietor (whether or not the proprietor is otherwise a party to the sale or contract) to the purchaser that at the time of the sale the composition of the pesticide is in accordance with the particulars set forth in the label relating to that pesticide.

(2) In every sale or contract of sale of any pesticide prescribed by the Authority by notice in the Gazette there shall be implied a warranty by the proprietor (whether or not the proprietor is otherwise a party to the sale or contract) to the purchaser that at the time of the sale the ingredients of which the pesticide is composed are evenly distributed throughout the product.

(3) The fact that a pesticide is registered, or that a label has been accepted by the Authority, in accordance with any of sections 165, 166, and 170 shall not be deemed to imply a warranty by the Government or by the Authority that the pesticide is reasonably fit for the purpose for which it is sold or that any statement contained in any such label is correct.

Compare: 1979 No 26 s 39

172 Pesticide register

(1) For the purpose of administering this Part, the Authority shall keep a register containing details of all persons who have obtained registration of pesticides.

(2) The Authority may incorporate such part or parts of the register kept under subsection (1) into the register kept under section 20 as it thinks fit.

(3) The register kept under subsection (1) shall include all the information contained in the register maintained under section 33 of the Pesticides Act 1979 before the date of commencement of this Act.

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

Compare: 1979 No 26 s 33

173 Regulations relating to all pesticides

(1) Subject to subsections (3) to (5), for the purposes of this Part, the following regulations and notices shall apply, with the necessary modifications, to all pesticides:

(a) the Pesticides Regulations 1983:

(b) Revoked

(c) the Pesticides (Bacterial and Fungal Preparations) Order 1984:

(d) Revoked

(e) the notice entitled Notice Exempting Pesticides from Registration published in Gazette, 1991, Vol III, at page 2425:

(f) the notice entitled Specification of Countries From Which Unregistered Pesticides May be Imported for Own Use published in Gazette, 1992, Vol III, at page 2522:

(g) the Agricultural Chemicals (2, 4, 5-T Specification) Notice 1973:

(h) the Agricultural Chemicals (Paraquat Specification) Notice 1979.

(2) Subject to subsections (3) to (5), for the purposes of this Part, the Pesticides (Organochlorine) Notice 1984 shall apply, with the necessary modifications, to the pesticides described in that notice.

(3) Every reference in the regulations, orders, and notices specified in subsections (1) and (2) to any provision contained in the Pesticides Act 1979 shall be deemed to be a reference to any equivalent provision set out in this Part.

(4) Without limiting the generality of subsections (1) to (3), every reference in the regulations, orders, and notices specified in subsections (1) and (2)---

(a) to the Pesticides Board, Medical Officer of Health, Director-General of Agriculture and Fisheries, or Inspector shall be read as a reference to the Authority:

(b) to the Minister shall be read as a reference to the Minister for the Environment.

(5) The provisions of this section shall not affect the valid exercise of any power or function by the Pesticides Board, Medical Officer of Health, Director-General of Agriculture and Fisheries, or Inspector under any regulations, orders, or notices referred to in subsections (1) and (2) made before the date of commencement of this Act.

Section 173(b): revoked, on 2 July 2001, pursuant to section 86(2) of the Agricultural Compounds and Veterinary Medicines Act 1997 (1997 No 87).

Section 173(d): revoked, on 2 July 2001, pursuant to section 86(2) of the Agricultural Compounds and Veterinary Medicines Act 1997 (1997 No 87).

174 Regulations relating to controlled pesticides

(1) Subject to subsections (2) to (4), for the purposes of sections 176 to 182, the Pesticides (Vertebrate Pest Control) Regulations 1983 shall apply, with the necessary modifications, to any controlled pesticide.

(2) Every reference in the regulations specified in subsection (1) to---

(a) any provision contained in the Pesticides Act 1979 shall be deemed to be a reference to any equivalent provision set out in this Part; and

(b) any Part of Schedule 1 of the Pesticides Act 1979 shall be deemed to be a reference to the equivalent part of Part A of Schedule 7.

(3) Without limiting the generality of subsections (1) and (2) but subject to subsection (4), every reference in the regulations specified in subsection (1)---

(a) to the Pesticides Board, Medical Officer of Health, Director-General of Agriculture and Fisheries, or Inspector shall be read as a reference to the Authority; and

(b) to the Minister shall be read as a reference to the Minister for the Environment.

(4) Subsection (3)(a) shall not apply to the references to the Medical Officer of Health in regulations 12, 13, 14, 15, 17, and 19 of the Pesticides (Vertebrate Pest Control) Regulations 1983.

(5) The provisions of this section shall not affect the valid exercise of any power or function by the Pesticides Board, Medical Officer of Health, Director-General of Agriculture and Fisheries, or Inspector under the regulations referred to in subsection (1) made before the date of commencement of this Act.

175 Interpretation

In sections 176 to 182, unless the context otherwise requires, approved operator means,---

(a) in relation to a specified controlled pesticide, a person who is licensed under section 178 to use that controlled pesticide:

(b) in relation to any controlled pesticide that is applied from an aircraft, a pilot who holds a chemical rating pursuant to the Civil Aviation Regulations 1953.

Compare: 1979 No 26 s 42

176 Restrictions on use of controlled pesticides

(1) No person shall apply or in any other way use any controlled pesticide unless---

(a) that person is an approved operator in respect of that pesticide; or

(b) in doing so, that person acts under the supervision and control of a person who is an approved operator in respect of that pesticide; or

(c) that person does so with the prior approval of the Authority, and subject to such conditions as the Authority may prescribe.

(2) No approved operator shall---

(a) apply or in any other way use any controlled pesticide; or

(b) permit any person under his or her supervision or control to apply or in any other way use any controlled pesticide---

otherwise than in accordance with the terms and conditions of the approved operator's licence or the Authority's approval.

Compare: 1979 No 26 s 44

177 Qualifications for approved operator licence

No person may obtain a licence as an approved operator unless---

(a) that person has attained the age of 18 years; and

(b) the Authority is satisfied that person---

(i) has completed such courses of study and passed such examinations (whether oral or written) as prescribed by or under the Pesticides Regulations 1983 or regulations made under section 160(1)(e), or otherwise satisfied the Authority that he or she has sufficient academic knowledge; and

(ii) has had sufficient practical instruction to apply or otherwise use safely every controlled pesticide for which a licence is sought; and

(iii) is in all other respects a fit and proper person to be entrusted to apply or otherwise use safely a controlled pesticide.

Compare: 1979 No 26 s 45

178 Dealing with applications

(1) On receiving an application for a licence as an approved operator, the Authority shall grant a licence to the applicant if it is satisfied that---

(a) the applicant satisfies the requirements of section 177; and

(b) the applicant has not been subject to any disqualification under section 52 of the Pesticides Act 1979 in the period of 5 years before the date of the application.

(2) Regulations 12 to 23 of the Pesticides Regulations 1983 shall apply, with all necessary modifications, to sections 176 to 182, and the Authority may grant a licence subject to such conditions (if any) as may be imposed by or

under those regulations.

(3) Any conditions imposed under subsection (2) may apply either generally or in respect of any particular controlled pesticide.

(4) The Authority, in granting a licence, shall specify each controlled pesticide to which that licence relates.

(5) Where, before the date of commencement of this Act, any person was licensed as an approved operator under Part 5 of the Pesticides Act 1979, that person shall be deemed to have been licensed by the Authority as an approved operator for the purposes of this section.

Compare: 1979 No 26 s 47

179 Effect of licences

Every licence granted for the purposes of section 178 shall authorise the holder to apply or otherwise use every controlled pesticide specified in the licence subject to the conditions (if any) attaching to the licence.

Compare: 1979 No 26 s 48

180 Duration of licences

(1) Every licence granted for the purposes of section 178 shall, unless---

(a) cancelled or surrendered under this Part or Part 11; or

(b) the substance to which the licence relates is specified in regulations made under section 160(1)(c) or section 160A,---

remain in force.

(2) For the purposes of subsection (1), a licence to which section 178(5) applies shall be deemed to have been granted on the date of commencement of this Act.

Compare: 1979 No 26 s 49

Section 180(1)(b): words substituted, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

181 Variation of terms and conditions of licences

(1) The holder of a licence may apply to the Authority for a variation of any of the terms or conditions of the licence.

(2) Where, before the date of commencement of this Act, any person had made an application for a variation of the terms and conditions of a licence under section 50 of the Pesticides Act 1979, that application may be continued and determined in all respects (including any subsequent right of appeal) under the Pesticides Act 1979 as if this Act had not been enacted.

(3) The granting or declining of an application to which subsection (2) applies shall constitute the granting or declining of an application by the Authority for the purposes of this Part, notwithstanding that all the requirements of this Part or of Part 11 in relation to that application and determination may not have been complied with.

Compare: 1979 No 26 s 50

182 Register of approved operators

(1) The Authority shall keep a register of all licences granted under section 178, containing such particulars as the Authority thinks fit.

(2) The register shall include all the information which, before the date of commencement of this Act, was recorded in the register maintained under section 51 of the Pesticides Act 1979.

(3) The Authority may incorporate such part or parts of the register kept under subsection (1) into the register kept under section 20, as it thinks fit.

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

Compare: 1979 No 26 s 51

Part 13 Transitional provisions---Toxic substances

183 Interpretation

(1) In this Part, unless the context otherwise requires,---

advertisement means any words whether written, printed, or spoken, and any pictorial representation, design, or device used to explain the use, or notify the availability, or promote the sale, of any substance or preparation; and includes any trade circular, any label, and any advertisement in any trade journal

application means an application for a licence; and **applicant** means the person who will be the licensee if the application is granted

commercial user means a person who---

(a) regularly uses land---

(i) for the purpose of any agricultural, horticultural, pastoral, or recreational undertaking carried on for profit; or

(ii) for the keeping for profit of animals or bees---

and requires a poison in connection with such use; or

(b) requires a poison for use in any scientific, educational, or commercial laboratory; or

(c) requires a poison for use in any process of manufacture or in any trade or business; or

(d) requires a poison for use in any public reserve, within the meaning of the Reserves Act 1977, or in any public recreational area that the person is responsible for maintaining

container includes anything in or by which toxic substances may be cased, covered, enclosed, contained, or packed; and in the case of goods sold, or carried, or intended for sale or carriage in more than 1 container, includes every such container

dangerous poison means a substance which was, before the date of commencement of this Act, listed in Schedule 2 of the Toxic Substances Regulations 1983

deadly poison means a substance which was, before the date of commencement of this Act, listed in Schedule 1 of the Toxic Substances Regulations 1983

harmful substance means a substance which was, before the date of commencement of this Act, listed in Schedule 4 of the Toxic Substances Regulations 1983

licensee corporation means a corporation holding a licence under this Act

medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine

pharmacist means a health practitioner who is, or is deemed to be, registered with the Pharmacy Council established by section 114(5) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of pharmacy

pharmacy and pharmacy practice have the same meanings as in section 2(1) of the Medicines Act 1981

poison means a deadly poison, a dangerous poison, and a standard poison

prepare, in relation to a toxic substance, means to dilute, or to convert chemically to another substance, preparation, mixture, or compound at any time before the toxic substance is packed for sale

responsible person, in relation to a licensee corporation, means an agent or employee of that corporation who is a pharmacist or a person approved by the Authority as a responsible person for the purposes of a licence; and includes any person who, before the date of commencement of this Act, was approved as a responsible person for the purposes of the Toxic Substances Act 1979

sell by retail means sell for purposes other than resale; and sale by retail has a corresponding meaning

standard poison means a substance which was, before the date of commencement of this Act, listed in Schedule 3 of the Toxic Substances Regulations 1983

substance means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour

toxic substance means---

(a) any poison or harmful substance; and

(b) any other substance which, immediately before the date of commencement of this Act, was notified under section 32 of the Toxic Substances Act 1979; and

(c) PCB's; and

(d) any substance which contained a toxic substance and was in use in New Zealand before the date of commencement of this Act, but which was exempt from notification under the Toxic Substances Act 1979 because of its inclusion in Schedule 5 of the Toxic Substances Regulations 1983

veterinary surgeon means a person for the time being registered as a veterinary surgeon under the Veterinary Surgeons Act 1956; and includes a person who uses the title or description of a veterinary practitioner under the authority of that Act.

(2) Every reference to a poison, or harmful substance, or other toxic substance in---

(a) this Part and Part 11; or

(b) any regulations made, before the date of commencement of this Act, under the Toxic Substances Act 1979; or

(c) any regulations made under section 160 or section 160A or section 160B---

shall be deemed to include a reference to any substance, preparation, mixture, compound, or article containing, otherwise than in a toxicologically insignificant quantity, that poison, harmful substance, or other toxic substance.

Compare: 1979 No 27 s 2

Section 183(1) medical practitioner: substituted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 183(1) pharmacist: substituted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 183(1) pharmacy and pharmacy practice: inserted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 183(2)(c): words inserted, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

184 Application of this Part

(1) Subject to subsection (2), this Part shall apply to all---

(a) deadly poisons, dangerous poisons, standard poisons, and harmful substances; and

(b) other toxic substances which, before the date of commencement of this Act, had been notified under section 32 of the Toxic Substances Act 1979, and which are not deadly poisons, dangerous poisons, standard poisons, or harmful substances.

(2) Where, before the date of commencement of this Act, the Toxic Substances Board had made a recommendation that a toxic substance be declared to be a deadly poison, dangerous poison, standard poison, or harmful substance under section 7(1) of the Toxic Substances Act 1979, the provisions of section 7 of that Act shall continue to apply, with any necessary modifications, as if---

(a) any reference to the Minister was a reference to the Minister for the Environment (in consultation with the Minister of Health); and

(b) this Act had not been enacted.

(3) Where any toxic substance is declared to be a deadly poison, dangerous poison, standard poison, or harmful substance under subsection (2), that substance shall be deemed to have been so declared before the date of commencement of this Act; and the provisions of this Part shall apply accordingly.

(3A) Any toxic substance which, before the date of commencement of this Act was the subject of a notification under section 32 of the Toxic Substances Act 1979, may continue to be imported or manufactured by any person under this Part until regulations made under section 160A apply to that substance.

(4) This Part shall not apply to any substance which is included in any regulation made under section 160(1)(c) or section 160A.

(5) Nothing in this Part, except---

(a) sections 193(1)(d), 205, 206, 207, and 208; and

(b) such of the provisions of section 186 as relate to the packing, preparing, and labelling of poisons---

shall apply to toxic substances included in Schedule 5 of the Toxic Substances Regulations 1983.

Section 184(3A): inserted, on 2 July 2001, by section 39 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Section 184(3A): expression substituted, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

Section 184(4): words substituted, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

184A Protection of information

The protection given to information by Part 2A of the Animal Remedies Act 1967 in respect of animal remedies that are toxic substances continues for the period specified in that Part as if that Act had not been repealed by the Agricultural Compounds and Veterinary Medicines Act 1997, and during that period any information protected by that Part may not be used for the purposes of determining whether to grant an application under this Act.

Section 184A: inserted, on 2 July 2001, by section 40 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

185 Restrictions on sales of deadly poisons and dangerous poisons

No person shall sell any deadly poison or any dangerous poison except to a person who is---

- (a) authorised by or under this Part to sell that poison; or
- (b) the employer of a person who is authorised by or under this Part to sell that poison and who takes delivery of the poison; or
- (c) a commercial user; or
- (d) a person who requires the poison for administration to an animal, where the poison is sold by a veterinary surgeon or pursuant to a prescription of a veterinary surgeon; or
- (e) an officer designated by the Director-General of Health acting in the course of his or her official duties; or
- (f) a person employed in any scientific, educational, or commercial laboratory who requires the poison for the purposes of teaching, research, or investigation; or
- (g) a person who is authorised by the Toxic Substances Regulations 1983 to use or otherwise to be in possession of that poison; or
- (h) a person who is authorised by the Authority to be in possession of that poison.

Compare: 1979 No 27 s 19

186 Sale and packing of poisons

- (1) Except as provided in sections 194 to 198, no person shall---
 - (a) sell any deadly poison or any dangerous poison, unless that person is the holder of a licence to sell that poison; or
 - (b) pack, prepare, or label any poison for the purpose of sale, unless

that person is licensed to pack that poison.

(2) No licensee shall sell any deadly poison or any dangerous poison, or pack, prepare, or label any poison for the purpose of sale, other than a poison specified or described in the licence held by that person, or otherwise than in accordance with the terms and conditions of that licence.

(3) Except as may be permitted in any licence, or by or under the Toxic Substances Regulations 1983, no licensee shall sell any deadly poison or any dangerous poison, or pack, prepare, or label any poison for the purpose of sale, elsewhere than in the premises specified or described in the licence.

Compare: 1979 No 27 s 20

187 Further restrictions on sale of poisons

(1) Except as may be permitted by the Toxic Substances Regulations 1983, no person shall sell any poison or harmful substance by means of an automatic vending machine.

(2) No person shall sell or hawk any poison---

(a) from house to house; or

(b) in any public place within the meaning of section 2 of the Summary Offences Act 1981; or

(c) in any premises other than that person's regular business premises---

unless that person sells or hawks that poison---

(d) pursuant to and in accordance with any conditions or restrictions contained in a licence granted for the purposes of this Part; or

(e) in a manner permitted by or under regulation 46 of the Toxic Substances Regulations 1983.

(3) No person shall sell any poison or harmful substance to any other person otherwise than pursuant to an order given or a request made by that other person.

(4) Nothing in this section shall prevent---

(a) a licensee or a pharmacist from selling any poison or harmful substance to a customer in the ordinary course of business in accordance with the customer's needs as expressed by that customer; or

(b) a veterinary surgeon from selling any poison or harmful substance in the practice of his or her profession and for the treatment of an animal under his or her care.

Compare: 1979 No 27 s 25

188 Containers

(1) Except as may be permitted by the Toxic Substances Regulations 1983, no person shall, in the course of any business, pack, store, sell, or cause to be transported any poison or harmful substance unless it is in a container that---

(a) is impervious to the poison or harmful substance; and

(b) is so constructed that it can be readily and effectively resealed after any portion of the contents has been used; and

(c) is labelled in the prescribed manner.

(2) Notwithstanding subsection (1), no person shall, in the course of any business, pack any deadly poison otherwise than in a container of a design or type that has been approved by the Authority.

(3) Notwithstanding anything in subsection (1)(b), where---

(a) a container bears a label with directions to the effect that the whole of the contents must be used immediately on opening; and

(b) the quantity and nature of the contents are such that it is unlikely that less than the whole of the contents will be used on any 1 occasion,---

that container need not comply with the requirements of subsection (1)(b).

(4) For the purposes of subsection (1)(b), a container can be readily and effectively resealed if (but only if) it is provided with a cap, lid, stopper, or other means of closure that, without the use of any other material (except a wad, liner, or washer provided with the container) will close the container so as to prevent any leakage of its contents.

(5) In any case where a requirement in respect of the packing or labelling of any toxic substance that is neither a poison nor a harmful substance is prescribed by the Toxic Substances Regulations 1983, no person shall, in the course of any business, pack, store, sell, or cause to be transported that toxic substance unless it is in a container of the design or type prescribed by those regulations, and is labelled in the manner prescribed by those regulations.

(6) Where, before the date of commencement of this Act, any design or type of container was approved under section 26(1A) of the Toxic Substances Act 1979, that design or type shall be deemed to be approved by the Authority for the purposes of subsection (2).

Compare: 1979 No 27 s 26

189 Custody of poisons and harmful substances

No person shall have any poison or harmful substance in his or her possession or charge (whether for the purposes of sale or any other purpose) otherwise than in a container conforming with the relevant requirements of section 188 and the Toxic Substances Regulations 1983.

Compare: 1979 No 27 s 28

190 Storage of poisons and harmful substances

(1) No person in possession or charge of any poison or harmful substance shall keep it---

(a) on or above any shelf on which any food, drink, or medicine is stored or displayed; or

(b) in any cupboard, box, or other place in which articles of food, drink, or medicine are stored or kept ready for use.

(2) No person in possession or charge of any standard poison or harmful substance shall keep it in any place where it is displayed for retail sale unless---

(a) it is in containers---

(i) of a capacity of not less than 5 litres; or

(ii) that weigh (together with the contents) not less than 5 kilograms; or

(b) it is kept not less than 1.5 metres above the floor in a place that is inaccessible to children.

(3) Subject to subsection (4), no person in possession or charge of any deadly poison or dangerous poison shall keep that poison anywhere other than in a locked room, locked compartment, locked cupboard, or locked cage, or securely fenced and locked outdoor compound.

(4) In respect of containers of any deadly poison or dangerous poison having a capacity of not less than 5 litres or weighing (together with the contents) not less than 5 kilograms and displayed for retail sale, it shall be sufficient compliance with subsection (3) if the containers are kept out of the reach of unauthorised persons.

(5) For the purposes of subsection (4), every person is an unauthorised person in relation to any deadly poison or dangerous poison unless that person is---

(a) under the direct supervision of the licensee or an agent of the licensee; or

(b) the purchaser of the poison from the licensee or an agent of the licensee under a completed purchase; or

(c) a person acting on behalf of the Authority in the course of his or her official duties.

(6) No person in possession of a deadly poison that is kept for the time being within any building, ship, aircraft, hovercraft, or vehicle, shall leave that building, ship, aircraft, hovercraft, or vehicle unattended unless that person has taken all reasonable steps to ensure that the building, ship, aircraft, hovercraft, or vehicle, or the part of it in which the deadly poison is kept, is secured against unlawful entry.

Compare: 1979 No 27 s 29

191 Packing of poisons and harmful substances

No person shall pack any poison or harmful substance, or prepare it for use, in any dwelling or room, or on any table or bench, that is used for the purpose of packing, preparing, or consuming any food or drink.

Compare: 1979 No 27 s 30

192 Restriction on possession and use of deadly poisons and dangerous poisons

No person shall, without reasonable excuse, procure, receive, store, use, or otherwise have in his or her possession any deadly poison or dangerous poison.

Compare: 1979 No 27 s 31

193 Control of advertisements

(1) No person, being the seller of any toxic substance, or being the agent or employee of the seller, shall publish or cause or permit to be published any advertisement relating to, or calculated or likely to cause any other person to believe that it relates to, a toxic substance, if the advertisement---

(a) fails to make any statement required by the Toxic Substances Regulations 1983 to be made in any advertisement in respect of that substance; or

(b) makes any statement prohibited by those regulations; or

(c) directly or by implication qualifies, or is contrary to, any statement or other particulars required by those regulations to be included in any advertisement or to be included in any label borne on the substance; or

(d) directly or by implication states or suggests that the substance is not poisonous or is harmless; or

(e) is of a size that contravenes or does not comply with the requirements of those regulations; or

(f) includes any lettering that is of a size that contravenes or does not comply with the requirements of those regulations; or

(g) is published in a medium that is prohibited in respect of such advertisements by those regulations.

(2) For the purposes of this Part, regulations 7 to 14 of the Toxic Substances Regulations 1983 shall apply, with all necessary modifications, to the control of advertisements under this section.

Compare: 1979 No 27 s 34

194 Disposal of surplus poisons to other user or licensee

(1) The provisions of this Part relating to the sale of any poison shall not apply to the disposal of any poison pursuant to subsection (2).

(2) Where any commercial user (in this section referred to as the transferor) has in his or her possession any quantity of a poison that is surplus to his or her needs, the transferor may dispose of that surplus to any other commercial user or to the holder of a licence authorised under this Part to have that poison (in this section referred to as the transferee).

(3) The transferor may surrender the poison to the Authority for delivery to the transferee under subsection (2).

Compare: 1979 No 27 s 5

195 Exemptions for pharmacists

(1) Subject to subsection (2), and to sections 185 and 187, a pharmacist may sell any deadly poison or any dangerous poison, or pack, prepare, or label any poison.

(2) The authority conferred by subsection (1) extends only to the sale of deadly poisons and dangerous poisons, and the packing, preparing, and labelling of poisons, in a pharmacy where pharmacy practice is carried on.

Compare: 1979 No 27 s 21

Section 195(2): substituted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

196 Exemptions for veterinary surgeons

Subject to section 189, a veterinary surgeon may sell any deadly poison or any dangerous poison in the course of the practice of his or her profession for the treatment of an animal under his or her care, and may pack, prepare, and label any poison for that purpose.

Compare: 1979 No 27 s 22

197 Exemptions for certain other persons

Subject to sections 187 and 189, any person acting in the course of his or her official duties on behalf of the Authority may sell any deadly poison or any dangerous poison.

Compare: 1979 No 27 s 23

198 Exemptions for agents and employees

(1) Subject to sections 185 and 187, an agent or employee of a licensee or pharmacist may sell any deadly poison or any dangerous poison if---

- (a) the sale could lawfully be made by the licensee or pharmacist; and
- (b) in the case of a sale by retail,---

(i) except as may be permitted by or under the Toxic Substances Regulations 1983, the poison is sold under the direct personal supervision of the licensee or pharmacist, or, if the licensee is a body corporate, by or under the direct supervision of a responsible person; and

(ii) the poison is one that the agent or employee (not being a responsible person) is authorised by the Toxic Substances Regulations 1983 to sell.

(2) An agent or employee of a licensee or pharmacist may pack, prepare, or label any poison if---

(a) the licensee or pharmacist could lawfully pack, prepare, or label the poison; and

(b) the poison is packed, prepared, and labelled under the direct personal supervision of the licensee or pharmacist, or, if the licensee is a body corporate, under the direct supervision of a responsible person.

(3) Nothing in subsection (1) or subsection (2) shall authorise any person to sell a deadly poison or a dangerous poison or to pack, prepare, or label a poison at any place, if that person's principal or employer is not authorised by or under this Part to sell, or to pack, prepare, or label (as the case may be) that poison at that place otherwise than in accordance with every condition imposed by or under this Part to which the principal or employer is subject.

(4) Nothing in this section shall limit any of the provisions of sections 195 or 197.

Compare: 1979 No 27 s 24

Section 198(4): words substituted, on 7 May 1999, by section 15(i) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

199 Applications for licences

(1) Subject to subsection (4), the following persons may apply to the Authority for a licence for the purposes of this Part---

(a) any person, on his or her own behalf, who is over 20 years of age; or

(b) an appropriate officer of a body corporate on behalf of that body corporate.

(2) Every application made by a person who is not---

(a) a licensee at the date of the application; and

(b) a body corporate---

shall be accompanied by such evidence of the applicant's identity and character as may be reasonably required by the Authority.

(3) Every application made on behalf of a body corporate shall set out the name and relevant qualifications (if any) of every person who is proposed to be

a responsible person for the purposes of the licence, and, if---

(a) the applicant is not a licensee at the date of the application; or

(b) no evidence as to the character and identity of that person has previously been provided,---

the application shall be supported by such evidence of that person's identity and character as may be reasonably required by the Authority.

(4) No application shall be made by 2 or more persons jointly.

(5) Where, before the date of commencement of this Act, any person had made an application for a licence under section 35 of the Toxic Substances Act 1979, that application may be continued and determined in all respects (including any subsequent right of appeal) under the Toxic Substances Act 1979 as if this Act had not been enacted.

(6) The granting or declining of an application to which subsection (5) applies shall constitute the granting or declining of an application by the Authority for the purposes of this Part, notwithstanding that all the requirements of this Part or of Part 11 in relation to that application and determination may not have been complied with.

Compare: 1979 No 27 s 35

200 Dealing with applications

(1) In determining any application under section 199, the Authority shall have regard to the following matters:

(a) whether the requirements of section 199 have been complied with:

(b) in the case of an application made by a natural person on his or her own behalf, whether the applicant is a fit and proper person to hold the licence applied for, or, in the case of an application made on behalf of a body corporate, whether the applicant (body corporate) is of good repute:

(c) whether the applicant has been disqualified from obtaining a licence by a court on conviction for an offence under this Act or the Toxic Substances Act 1979:

(d) in the case of an application made by a natural person on his or her own behalf, whether the applicant, or, in the case of an application made on behalf of a body corporate, every person proposed to be a responsible person for the purposes of the licence applied for, has sufficient knowledge of the obligations of a licensee and of the hazards associated with the poisons in which it is proposed to deal:

(e) whether the premises and equipment that the applicant proposes to use are suitable and adequate for the purposes for which the licence is sought.

(2) Every licence shall be subject to such conditions (if any) as may be imposed on the grant of the licence, or at any subsequent time by or pursuant to the Toxic Substances Regulations 1983.

(3) A licence to sell a poison may be combined with a licence to pack that poison or any standard poison.

(4) If the Authority refuses to grant a licence, or attaches conditions to a licence, or cancels a licence, and the applicant for the licence or the licensee requests it to give reasons for such refusal, attachment of conditions, or cancellation, the Authority shall state its reasons in writing to that person.

(5) For the purposes of this Part, regulations 42, 43, 44, 45, and 46 of the Toxic Substances Regulations 1983 shall apply, with all necessary modifications, to any licence or application for any licence for the purposes of this Part.

Compare: 1979 No 27 s 36

201 Effect of licences

(1) Subject to sections 185, 187, and 198,---

(a) a licence to sell a poison shall authorise the licensee to sell that poison (whether by wholesale or retail) either in person or by the licensee's agent or employee in accordance with the terms and conditions of the licence:

(b) notwithstanding paragraph (a), a licence may be limited to sale by wholesale only or to sale by retail only:

(c) a licence to pack a poison shall authorise the licensee to pack, prepare, and label that poison either in person or by the licensee's agent or employee in accordance with the terms and conditions of the licence.

(2) If a licence confers or contains an authority to sell or hawk poisons anywhere other than in premises specified or described in the licence, the licence shall authorise the licensee---

(a) to sell poisons at the place or places specified or described in the licence; or

(b) to sell poisons within the area or areas specified or described in the licence; or

(c) if no place or area is specified or described in the licence, to sell poisons anywhere in New Zealand---

in accordance with the terms and conditions of the licence.

Compare: 1979 No 27 s 37

202 Duration of licences

(1) Subject to subsections (2) and (3), every licence, unless sooner cancelled under section 158, shall continue in force for a period of 1 year and shall then expire.

(2) Any licence granted within the period of 2 months preceding the date of expiration of an existing licence that it is intended to supersede shall continue in force for a period of 1 year beginning on the date of expiration of the existing licence.

(3) If a licensee applies for a new licence not more than 3 months and not less than 1 month before the date of expiration of an existing licence that the new licence is intended to supersede, and the application is not disposed of before the date of expiration, the existing licence shall continue in force until the application is disposed of.

(4) Where, before the date of commencement of this Act, any person held a licence under section 36 of the Toxic Substances Act 1979, that licence shall be deemed to be a licence granted by the Authority for the purposes of section 200.

Compare: 1979 No 27 s 38

203 Records of sales

(1) Except as may be permitted by or under the Toxic Substances Regulations 1983, every person who sells any deadly poison or dangerous poison shall keep, in some place of security at that person's place of business, such records as may be prescribed by the Toxic Substances Regulations 1983, and shall keep every such record for a period of not less than 3 years from the date of the making of the record or, in the case of a book containing more than 1 such record, from the date of the last entry in that book.

(2) For the purposes of this Part, regulation 50 of the Toxic Substances Regulations 1983 shall apply to the keeping of records under subsection (1).

Compare: 1979 No 27 s 27

204 Register

(1) The Authority shall keep a register of licences granted for the purposes of section 200, and such other registers and records as may be prescribed.

(2) The Authority shall include in the register kept under subsection (1) all the information contained in the register kept under section 40 of the Toxic Substances Act 1979 before the date of commencement of this Act.

(3) The Authority may incorporate such part or parts of the register kept under subsection (1) into the register kept under section 20 as it thinks fit.

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

Compare: 1979 No 27 s 40

205 Interpretation

For the purposes of sections 206 and 207, unless the context otherwise requires, proper authority, in relation to a New Zealand port, means---

(a) the harbourmaster appointed under Part 39A of the Local Government Act 1974 in respect of that port, or any person authorised by the harbourmaster to perform any of the functions of the harbourmaster under this Act; or

(b) where there is no harbourmaster, the regional council for the region in which the port is situated.

Section 205: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

206 Packing of imported toxic substances

(1) Every toxic substance imported into New Zealand shall be strongly and securely packed in the manner prescribed by or under regulations 15, 16, 36, 37, 38, 39, 40, and 41 of the Toxic Substances Regulations 1983, and those regulations shall continue to apply, with all necessary modifications.

(2) The obligation to comply with the requirements of this section shall lie on the person importing the toxic substance or causing it to be imported.

Compare: 1979 No 27 s 42

207 Notice to be given of imported toxic substances

(1) Where any toxic substance specified in Part B of Schedule 7 is to be brought into New Zealand by sea, the owner or master of the vessel shall, at least 48 hours before the goods are due to be landed or (if this is not practicable) as soon as practicable thereafter, give written notice to the proper authority at the New Zealand port in which the toxic substance is to be landed of---

- (a) the identity of every substance:
- (b) the quantity of each such substance being imported:
- (c) the vessel on which the substance is to be carried to New Zealand:
- (d) the seaport at which the vessel is to arrive:
- (e) the estimated time and date of arrival of the vessel.

(2) Every proper authority at a New Zealand port who receives a notice under subsection (1) shall, as soon as practicable thereafter, inform the Authority of the contents of the notice.

Compare: 1979 No 27 s 43

208 Application of toxic substances regulations

(1) Subject to subsections (2) and (3), the Toxic Substances Regulations 1983 shall apply, with the necessary modifications, to toxic substances under this Part.

(2) Every reference in the regulations specified in subsection (1) to any provision contained in the Toxic Substances Act 1979, where appropriate,

shall be deemed to be a reference to an equivalent provision set out in this Part or Part B of Schedule 7.

(3) Without limiting the generality of subsection (2), every reference in the regulations specified in that subsection---

(a) to the Minister shall be read as a reference to the Minister for the Environment:

(b) to the Medical Officer of Health (except the reference in regulation 48 of these regulations) shall be read as a reference to the Authority or a member of the Authority, as appropriate:

(c) to the Director shall be read as a reference to the Authority:

(d) to an Officer shall be read as a reference to any person acting on behalf of the Authority in the course of his or her official duties under this Act.

(4) The provisions of this section shall not affect the valid exercise of any power or function by the Minister of Health, any Medical Officer of Health, the Director-General of Health, or any officer under the Toxic Substances Regulations 1983, before the date of commencement of this Act.

(5) For the purposes of subsection (4), officer means any person who was an officer as defined in section 2(1) of the Toxic Substances Act 1979 before the date of commencement of this Act.

Part 14 Transitional provisions---Dangerous goods

209 Interpretation

In this Part, unless the context otherwise requires,---

dangerous goods means goods of any of the kinds specified in Part C of Schedule 7; and a reference in this Part to a specified class or to a specified subclass of dangerous goods shall mean a reference to all the dangerous goods in that class or, as the case may be, in that subclass as set out in Part C of Schedule 7

depot, in relation to dangerous goods, means such building, place, or vessel as may be approved by the Authority as a depot for the storage of dangerous goods

dwellinghouse means any building which is occupied as a residence or any part of a building which is so occupied, together with any appurtenances belonging to, or usually enjoyed with, that residence

flash point, in relation to any substance, means the lowest temperature at which that substance, when tested by the method prescribed in Schedule 2 of the Dangerous Goods (Class 3---Flammable Liquids) Regulations 1985, liberates vapour at a rate sufficient to produce an explosive mixture with the air that is in immediate contact with the substance

fuel oil means any petroleum which has a flash point higher than 61o Celsius

and which is of a kind generally used for fuel or which is intended to be used for fuel

marking includes labelling

occupier means,---

(a) in relation to any premises, the person in actual occupation of those premises; and

(b) in relation to any premises in which any manufacture, trade, or business is carried on (whether for pecuniary profit or not), includes the person carrying on that manufacture, trade, or business in the premises

petroleum means any oil, liquid, or spirit derived wholly or in part from any petroleum, shale, schist, coal, peat, bitumen, or other similar substance

premises means any land, dwellinghouse, storehouse, storehouse, warehouse, shop, factory, store, cellar, yard, building, structure, or enclosed space, or any part of them; and for the purposes of this Part, all land, buildings, structures, and places adjoining each other and occupied together shall be deemed to be the same premises

store, in relation to dangerous goods, means to retain on any premises for a period of not less than 1 hour; and storage has a corresponding meaning

storeship means any ship which is used primarily for storage rather than conveyance

underground tank means a tank which is wholly below ground and is covered and surrounded on all sides by at least 60 centimetres of earth, or by any equivalent covering and surrounding approved by the Authority (or under the Dangerous Goods Act 1974 by the Chief Inspector before the date of commencement of this Act) either generally or in any particular case; and includes any tank which is partly below ground and is similarly covered and surrounded

vehicle means any conveyance of any kind whatsoever for use on land

vessel means a ship or boat of any description.

Compare: 1974 No 26 s 2

210 Application of this Part

(1) Subject to subsections (2) and (3), this Part shall apply to dangerous goods, being all those substances included in Part C of Schedule 7.

(2) This Part shall not apply to any substance included in regulations made under section 160(1)(c) or section 160A.

(3) This Part shall not apply to any substance listed in Class 2(a), (b), or (d), or Class 3, or Class 5 of Part C of Schedule 7 that was not lawfully present in New Zealand on the date of commencement of this Act.

(4) For the avoidance of doubt, the substances referred to in subsection (3)

shall be hazardous substances; and the provisions of Parts 5 to 10 shall apply accordingly.

Section 210(2): words substituted, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

211 Restrictions on storage and use of dangerous goods

(1) No person shall store or use dangerous goods except,---

(a) in premises licensed for the purposes of this Part for the storage of dangerous goods; or

(b) where premises are not required to be licensed by virtue of this Part or regulations 5, 5A, 6, or 7 of the Dangerous Goods (Licensing Fees) Regulations 1976, in the quantities and manner that may be allowed by this Part or those regulations.

(2) Nothing in the Dangerous Goods (Licensing Fees) Regulations 1976 shall authorise the storage in premises not required to be licensed of more than 15 litres at any one time of liquid dangerous goods of Class 3(a) used or intended for use in those premises in connection with any manufacture, trade, or business, or any purpose incidental to that manufacture, trade, or business.

(3) Where dangerous goods are stored or used in contravention of the provisions of this section, the following persons commit an offence against this Act:

(a) every person who so stores or uses those dangerous goods:

(b) the owner of those dangerous goods:

(c) the occupier of the premises where those dangerous goods are so stored or used.

Compare: 1974 No 26 s 26

212 Restrictions on containers

(1) No person shall pack any dangerous goods otherwise than in containers which comply with any requirements prescribed by the regulations referred to in section 221.

(2) No person shall offer for sale or hire, or distribute, any container or equipment said to be suitable for dangerous goods unless the container or equipment complies with any requirements prescribed by the regulations referred to in section 221.

Compare: 1974 No 26 s 28

213 Containers of dangerous goods to be specially marked

No person shall pack, store, carry, sell, hire out, or expose for sale or hiring out, any dangerous goods unless the container of those dangerous goods

and any outer package enclosing the container are marked as prescribed by the regulations referred to in section 221.

Compare: 1974 No 26 s 29

214 Pumps for reselling dangerous goods

(1) No person shall deliver dangerous goods of Class 3(a) for retail sale from an underground tank other than by means of a pump unit of a kind to which the Authority has given its approval by notice in the Gazette and which complies with the terms of that approval.

(2) No person shall deliver dangerous goods of Class 2(d) for retail sale for the purpose of refuelling fuel tanks attached to, or forming an integral part of, a motor vehicle other than by means of a pump unit of a kind to which the Authority has given its approval by notice in the Gazette and which complies with the terms of that approval.

(3) Any approval of the Authority under this section may be absolute or may be conditional on the pump unit being installed in a specified position or positions and operated by a specified method or methods.

(4) Where, before the date of commencement of this Act, any pump unit was approved under section 30(1) of the Dangerous Goods Act 1974, it shall be deemed to be approved by the Authority under subsection (1).

(5) Where, before the date of commencement, any pump unit was approved under section 30(1A) of the Dangerous Goods Act 1974, it shall be deemed to be approved by the Authority under subsection (2).

Compare: 1974 No 26 s 30

214 Pumps for reselling dangerous goods

(1) No person shall deliver dangerous goods of Class 3(a) for retail sale from an underground tank other than by means of a pump unit of a kind to which the Authority has given its approval by notice in the Gazette and which complies with the terms of that approval.

(2) No person shall deliver dangerous goods of Class 2(d) for retail sale for the purpose of refuelling fuel tanks attached to, or forming an integral part of, a motor vehicle other than by means of a pump unit of a kind to which the Authority has given its approval by notice in the Gazette and which complies with the terms of that approval.

(3) Any approval of the Authority under this section may be absolute or may be conditional on the pump unit being installed in a specified position or positions and operated by a specified method or methods.

(4) Where, before the date of commencement of this Act, any pump unit was approved under section 30(1) of the Dangerous Goods Act 1974, it shall be deemed to be approved by the Authority under subsection (1).

(5) Where, before the date of commencement, any pump unit was approved under section 30(1A) of the Dangerous Goods Act 1974, it shall be deemed to be

approved by the Authority under subsection (2).

Compare: 1974 No 26 s 30

216 Phosphorus matches

No person shall sell, offer, or expose for sale, or have in his or her possession for the purposes of sale, any matches made with the substance usually known as white phosphorus or yellow phosphorus.

Compare: 1974 No 26 s 32A

217 Licensing of premises for storage of dangerous goods

(1) Any person may apply to the Authority for a licence for the purposes of section 211 and the Authority may grant a licence subject to such conditions as it thinks fit in the interests of public safety or for the protection of any property.

(2) Where, before the date of commencement of this Act, any person had made an application for a licence to store dangerous goods under section 9 of the Dangerous Goods Act 1974, that application may be continued and determined in all respects (including any subsequent right of appeal) under the Dangerous Goods Act 1974 as if this Act had not been enacted.

(3) Where, before the date of commencement of this Act, any person holds a licence to store dangerous goods granted under section 9 of the Dangerous Goods Act 1974, that licence shall be deemed to be a licence granted by the Authority for the purposes of section 211.

(4) The granting or declining of an application to which subsection (2) applies shall constitute the granting or declining of an application by the Authority for the purposes of this Part, notwithstanding that all the requirements of this Part or of Part 11 in relation to that application and determination may not have been complied with.

Compare: 1974 No 26 s 9

218 Provisional licences

(1) Where, on any application for a licence required by section 211, it appears to the Authority that the premises in respect of which the application is made do not comply, or cannot immediately be made to comply, with all or any conditions prescribed by the Authority and where, in the opinion of the Authority, the safety of the public or of any person or of any property will not be prejudiced, the Authority may in its discretion grant to the applicant a provisional licence under this section subject to such conditions as the Authority thinks fit.

(2) For the purposes of this Part, a provisional licence granted under this section shall have the same effect as a full licence granted for the purposes of section 211, but shall expire on the day specified in the licence by the Authority, being any day not later than 31 March in the year next following the date on which the licence was granted.

(3) No person shall breach any condition imposed by a provisional licence under this section.

(4) The Authority may at any time amend, cancel, or confirm, as a full licence, any provisional licence granted by it.

Compare: 1974 No 26 s 10

219 General provisions as to licences

(1) Where a licence is granted under section 155 in respect of any goods to which---

(a) regulation 39 of the Dangerous Goods (Class 4---Flammable Solids or Substances and Class 5---Oxidising Substances) Regulations 1985; or

(b) regulation 203 of the Dangerous Goods (Class 3---Flammable Liquids) Regulations 1985; or

(c) regulation 140 of the Dangerous Goods (Class 2---Gases) Regulations 1980---

applies, that licence shall be subject to the provisions of those regulations.

(2) Where a licence is granted under section 155 in respect of any goods, other than those to which subsection (1) applies, that licence---

(a) shall be subject to any conditions that may be imposed under section 217; and

(b) shall have effect only in relation to the premises described in the licence.

(3) The holder of any licence granted for the purposes of this Part shall produce the licence for inspection whenever required to do so by the Authority.

(4) Any licence granted for the purposes of this Part may be transferred to another person (but not to another site) upon payment of the fee specified in the Dangerous Goods (Licensing Fees) Regulations 1976.

Compare: 1974 No 26 s 11

220 Renewal of licences

(1) Subject to section 158, every licence granted for the purposes of this Part shall expire on 31 March of the year next following the date on which it was granted, unless renewed from year to year on application by the holder delivered to the relevant territorial authority not later than 15 March in the year the licence is due to expire, or within any further time allowed by the relevant territorial authority in a particular case.

(2) Subject to sections 158 and 218(4), every licence granted under section 218 shall expire on the day specified in the licence unless renewed from time to time on application by the holder delivered to the office of the relevant territorial authority not later than 10 working days before the date of expiry,

or within any further time allowed by the relevant territorial authority in a particular case.

(3) Where application for the renewal of a licence is made under this section, the licence shall, where the application is not disposed of before the date of expiry of the licence, continue in force until the application is disposed of.

(4) The territorial authority may, unless the Authority directs that the Authority or another territorial authority shall renew a licence or any class of licence, grant a renewal of a licence---

(a) on the same terms and conditions as the previous licence; or

(b) unconditionally, if the previous licence was granted unconditionally---

or may refuse to grant a renewal of a licence if the licence holder has breached any regulations which apply in accordance with section 221.

(5) Section 155(8) and 155(9) shall apply to the grant or refusal of any licence under subsection (4).

(6) Any renewal granted under subsection (4) shall be a permission for the purposes of section 156(1)(d).

(7) Where, before the date of commencement of this Act, any person has made application for a renewal of licence under section 12 of the Dangerous Goods Act 1974, that application may be continued and determined in all respects (including any subsequent right of appeal) under the Dangerous Goods Act 1974 as if this Act had not been enacted.

(8) The granting or declining of an application to which subsection (7) applies shall constitute the granting or declining of an application by the Authority for the purposes of this Part, notwithstanding that all the requirements of this Part or of Part 11 in relation to that application and determination may not have been complied with.

Compare: 1974 No 26 s 12

Section 220(6): expression substituted, on 7 May 1999, by section 15(j) of the Hazardous Substances and New Organisms Amendment Act 1999 (1999 No 35).

221 Continuing application of dangerous goods regulations

(1) Subject to subsections (3) to (5), for the purposes of this Part,---

(a) the Dangerous Goods (Licensing Fees) Regulations 1976; and

(b) the Dangerous Goods (Labelling) Regulations 1978---

shall apply, with the necessary modifications, to all dangerous goods.

(2) For the purposes of this Part,---

(a) the Dangerous Goods (Class 2---Gases) Regulations 1980 shall apply, with the necessary modifications, to the storage and use of Class 2 gases under this Part:

(b) the Dangerous Goods (Class 3---Flammable Liquids) Regulations 1985 shall apply, with the necessary modifications, to the storage and use of Class 3 dangerous goods under this Part:

(c) the Dangerous Goods (Class 4---Flammable Solids or Substances and Class 5---Oxidising Substances) Regulations 1985 shall apply, with the necessary modifications, to the storage and use of Class 4 and 5 dangerous goods under this Part.

(3) Every reference in the regulations specified in subsections (1) and (2) to any provision contained in the Dangerous Goods Act 1974 shall, where appropriate, be deemed to be a reference to any equivalent provision set out in this Part or Part C of Schedule 7.

(4) Without limiting the generality of subsections (1), (2), and (3), every reference in the regulations specified in subsections (1) and (2)---

(a) to the Chief Inspector, Inspector, or Licensing Authority shall be read as a reference to the Authority:

(b) to the Minister shall be read as a reference to the Minister for the Environment.

(5) The provisions of this section shall not affect the valid exercise of any power or function by the Chief Inspector, Inspector, Licensing Authority, or Minister of Labour under the Dangerous Goods Act 1974, or any regulations made under that Act which was carried out before the date of commencement of this Act.

Part 15 Transitional provisions---Explosives

222 Interpretation

In this Part, unless the context otherwise requires,---

authorised explosive means any substance specified in the Explosives Authorisation Order 1994

detonator means a capsule or case which contains such a quantity of an explosive of the fifth (fulminate) class that the explosion of 1 capsule or case will communicate itself to other like capsules or cases

explosive means any substance which, immediately before the date of commencement of this Act, was an authorised explosive

magazine means any building, chamber, cave, pit, cellar, hulk, floating vessel, or place in which explosives or partly manufactured explosives are stored; but does not include a room or building in any explosives factory in which small quantities of explosives or partly manufactured explosives are stored for use in processes in the factory

manufacture, in relation to any explosive, means the process of making the explosive, or the process of adapting the explosive to make any other explosive, or the process of dividing up into component parts or breaking up or unmaking the explosive, or the process of remaking or altering or repairing the explosive, or the process of separating or picking out defective or damaged portions of the explosive

occupier,---

(a) in relation to any premises or to any part of any premises, means the person in actual occupation thereof; and

(b) in relation to any building or part of a building in which any manufacture or trade is carried on, includes the person carrying on that manufacture or trade in that building or that part

premises means any land, house, storehouse, shop, factory, cellar, yard, building, or enclosed space

store, in relation to explosives, means to retain the explosives on any premises; and storage has a corresponding meaning

vehicle means any conveyance of any kind whatsoever for use on land

vessel means a ship or boat of any description.

223 Classification of explosives

For the purposes of this Part and of any regulations referred to in sections 227(3), 231(3), (4), 236(2), 241, 247(1), 249(2), 250(2), and 253, explosives are hereby divided into the several classes and divisions specified in Part D of Schedule 7, and references in this Part or those regulations to any specified class of explosive or any specified division of any class shall be deemed to be references to that class of explosive or that division according to the classification in that Part of that schedule.

Compare: 1957 No 19 s 4

224 Application of this Part

(1) Subject to subsection (2), the provisions of this Part shall apply to those substances which, immediately before the date of commencement of this Act, were authorised explosives specified in the Explosives Authorisation Order 1994.

(2) This Part shall not apply to any explosive which is included in any regulations made under section 160(1)(c) or section 160A.

Section 224(2): words substituted, on 24 March 2004, by section 13 of the Hazardous Substances and New Organisms (Transitional Provisions and Controls) Amendment Act 2004 (2004 No 7).

225 Importation of explosives

(1) No person shall import any explosive into New Zealand unless that person holds an entry permit granted by the Authority for the purposes of this section authorising the import of that explosive.

(2) Every person applying for an entry permit shall deliver the application to the Authority not less than 14 days before the expected arrival of the explosives.

(3) Subject to subsection (4), an entry permit shall be sufficient authority for the unloading of that consignment or any portion thereof at the place or places specified in the permit or at such other place or places as may be approved by the Authority.

(4) All explosives (other than explosives referred to in subsection (7)) imported into New Zealand shall be under the control of the Customs Department, and shall remain under its control until an order for their release has been granted by the Authority.

(5) Where, before the date of commencement of this Act, any person was the holder of an entry permit granted under section 12 of the Explosives Act 1957, that permit shall be deemed to be a permit granted by the Authority for the purposes of this section.

(6) Where, before the date of commencement of this Act, any person had made an application for an entry permit under section 12 of the Explosives Act 1957, that application may be continued and determined in all respects (including any subsequent right of appeal) under the Explosives Act 1957 as if this Act had not been enacted.

(7) Nothing in this section shall apply to any explosive which is referred to in the notice entitled Exemption of Certain Explosives From Requirement of an Entry Permit published in Gazette, 1958, Vol II, at page 1040.

(8) The granting or declining of an application to which subsection (6) applies shall constitute the granting or declining of an application by the Authority for the purposes of this Part, notwithstanding that all the requirements of this Part or of Part 11 in relation to that application and determination may not have been complied with.

Compare: 1957 No 19 s 12

226 Permit for importation of fireworks

(1) Subject to subsection (2), every person applying for an entry permit in respect of manufactured fireworks shall, at the time of making the application, submit to the Authority such results of the testing of the fireworks as the Authority may require.

(2) The provisions of sections 82 to 86 shall apply, with the necessary modifications, to any testing required by the Authority under subsection (1).

(3) Where---

(a) the Authority has required the submission of results of testing of manufactured fireworks; and

(b) those results are not available at the time of making an application for an entry permit,---

a permit for importation of those fireworks may be granted, but the fireworks imported under that permit shall be kept---

(c) under the control of the Customs Department; or

(d) in some place appointed by the Authority---

until test results have been submitted to the Authority and approved by it.

(4) Any person may import samples of manufactured fireworks for the purpose of carrying out any tests required by the Authority under subsection (1).

Compare: 1957 No 19 s 13

227 Licence to manufacture explosives

(1) Subject to subsection (6), no person shall manufacture any explosive, unless that person is the holder of a licence to do so granted by the Authority.

(2) A licence to manufacture any explosive shall specify the factory at which the explosive may be manufactured.

(3) Notwithstanding anything in subsection (2), the Authority may grant licences for the manufacture otherwise than in a factory of specified types of explosives, subject to such conditions as are prescribed by regulations 10 to 19 of the Explosives Regulations 1959; and those regulations shall apply, with the necessary modifications, to licences to manufacture explosives granted for the purposes of this section.

(4) Where, before the date of commencement of this Act, any person was the holder of a licence to manufacture explosives granted under section 18 of the Explosives Act 1957, that licence shall be deemed to be a licence granted by the Authority for the purposes of this section on the terms and conditions under which that licence was originally granted.

(5) Where, before the date of commencement of this Act, any person had made an application for a licence to manufacture explosives under section 17 of the Explosives Act 1957, that application may be continued and determined in all respects (including any subsequent right of appeal) under the Explosives Act 1957 as if this Act had not been enacted.

(6) Nothing in this section shall apply to the filling of cartridges for small arms where those cartridges are intended solely for the personal use of the person filling them and not for use by any other person nor for sale.

(7) The granting or declining of an application to which subsection (5) applies shall constitute the granting or declining of an application by the Authority for the purposes of this Part, notwithstanding that all the requirements of this Part or of Part 11 in relation to that application and determination may not have been complied with.

Compare: 1957 No 19 ss 16, 17, 18

228 Factory not to be altered without consent of Authority

(1) The holder of any licence to manufacture explosives shall maintain every part of the factory referred to in the licence in accordance with its description in the licence and, except with the prior consent in writing of the Authority, shall make no material alteration in the factory or its surroundings, whether by---

- (a) enlarging it; or
- (b) changing its site; or
- (c) constructing buildings or works; or
- (d) altering any mound otherwise than by enlargement.

(2) The Authority may consent to any proposed alteration on such terms as it thinks fit and may include such additional requirements on the proposed alteration as it thinks fit.

(3) Any alterations so authorised by the Authority shall be deemed to be a condition of the licence, and the licence shall be deemed to be extended or modified accordingly.

(4) Where, after the grant of a licence and without the prior consent in writing of the Authority, any building or work is constructed or located closer to any other building or work than is specified in the licence, or any place or building is occupied or used otherwise than as specified in the licence, the licence shall become void.

Compare: 1957 No 19 s 20

229 Fireworks not to be sold to persons under 14 years of age

No person shall sell any explosive of the third division of the seventh (firework) class to any person under the age of 14 years.

Compare: 1957 No 19 s 23B

230 Application of following sections

Nothing in sections 231, 233 to 237, 239, or 241 to 250 shall apply in respect of the following explosives:

- (a) explosives of the first division of the sixth (ammunition) class; or
- (b) explosives of the third division of the seventh (firework) class.

Compare: 1957 No 19 s 22

231 Explosives not to be sold without licence

(1) No person shall sell any explosive or keep any explosive for sale unless

that person is the holder of a licence to sell that explosive granted by the Authority.

(2) A licence to sell explosives shall authorise the holder to store such quantity (if any) of explosives as specified in the licence, but the holder shall store the explosives in a building or receptacle provided for their storage and approved by the Authority.

(3) The provisions of regulations 36 to 41 of the Explosive Regulations 1959 shall apply, with the necessary modifications, to the sale of explosives under this section and section 233 of this Act.

(4) The provisions of regulations 69 to 72 of the Explosives Regulations 1959 shall apply, with the necessary modifications, to the sale of explosives under section 233 of this Act.

(5) Where, before the date of commencement of this Act, any person had made an application for a licence to sell explosives required under section 23 of the Explosives Act 1957, that application may be continued and determined in all respects (including any subsequent right of appeal) under the Explosives Act 1957 as if this Act had not been enacted.

(6) Where, before the date of commencement of this Act,---

(a) any person was the holder of a licence to sell explosives under section 23 of the Explosives Act 1957, that licence shall be deemed to be a licence granted by the Authority for the purposes of this section:

(b) any building or receptacle was approved for the storage of any explosive by an Inspector under section 23(2) of the Explosives Act 1957, that building or receptacle shall be deemed to have been approved by the Authority for the storage of explosives for the purposes of this section.

(7) The granting or declining of an application to which subsection (5) applies shall constitute the granting or declining of an application by the Authority for the purposes of this Part, notwithstanding that all the requirements of this Part or of Part 11 in relation to that application and determination may not have been complied with.

Compare: 1957 No 19 s 23

232 Restriction on sale of fireworks

(1) No person shall sell by retail any explosive of the third division of the seventh (firework) class except during the period of 10 days that ends with 5 November in each year.

(2) Notwithstanding anything in subsection (1), but subject to all other provisions of this Part and of any other Act,---

(a) amorces, crack-shots, snaps for bonbon crackers, streamer bombs, and any other firework of a like nature that is approved by the Authority for the purpose of sale by retail, may be sold by retail at any time of the year:

(b) the Authority may, on application made to it, consent to the sale by

retail---

- (i) by any named person or persons; and
- (ii) at such specified other times---

of any explosive of the third division of the seventh (firework) class (other than any firework specified in or approved pursuant to paragraph (a)) if it is satisfied that any occasion or event so warrants.

(3) Where, before the date of commencement of this Act, an approval had been obtained from the Chief Inspector for the unrestricted sale of any firework under section 23A(2)(a) of the Explosives Act 1957, that approval shall be deemed to be an approval given by the Authority for the purposes of subsection (2)(a) of this section.

(4) Where, before the date of commencement of this Act, any person had obtained a consent from the Chief Inspector to sell explosives under section 23A(2)(b) of the Explosives Act 1957, that consent shall be deemed to be a consent given by the Authority for the purposes of subsection (2)(b) of this section.

(5) For the purposes of this section, sale includes displaying, exposing, or exhibiting for sale; but does not include advertising; and to sell has a corresponding meaning.

Compare: 1957 No 19 s 23A

233 Sale of explosives

(1) No person shall---

(a) hawk, sell, or expose or offer for sale any explosive in or upon any street, road, public thoroughfare, highway, or public place; or

(b) exhibit or expose for sale any explosive on any premises; or

(c) sell or deliver any explosive unless the package in which it is contained is labelled, branded, or marked in accordance with the Explosives Regulations 1959 which shall, with the necessary modifications, continue to apply; or

(d) sell any explosive to any person under 18 years of age; or

(e) sell any explosive to any person who is unknown to the seller, unless---

(i) the sale is made in the presence of some witness who is known to the seller and to whom the purchaser is known; and

(ii) the witness and the purchaser, before delivery of the explosive to the purchaser, sign their names and their respective places of residence to the entry in the book required to be kept under subsection (2).

(2) Every sale of explosives shall, at the time of sale and before delivery,

be entered by the licensee or an employee of the licensee in a book to be kept for that purpose, together with the date of sale, quantity and description of the explosive sold, and name, address, and occupation of the purchaser.

(3) Every licensee shall keep the book required to be kept under subsection (2) in a secure place, and shall keep every record of the sale of explosives for a period of not less than 3 years from the date of making that record, or the date of the last entry in any book containing more than 1 such record.

Compare: 1957 No 19 s 24

234 Storage of explosives

(1) Subject to section 239 and subsection (2), no person shall store any explosives in any place other than---

(a) the factory in which the explosive is manufactured; or

(b) a public magazine which, before the date of commencement of this Act, was appointed under section 30 of the Explosives Act 1957 or otherwise approved by the Authority for the purposes of section 241 of this Act; or

(c) a private magazine which, before the date of commencement of this Act, was licensed under section 31 of the Explosives Act 1957 or otherwise approved by the Authority for the purposes of section 242 of this Act; or

(d) a storage space specified in any licence to sell explosives granted before the date of commencement of this Act under section 23 of the Explosives Act 1957 or in any licence granted by the Authority for the purposes of any provision set out in this Part; or

(e) any premises approved by the Authority as suitable for storage of the particular type and quantity of explosive concerned.

(2) No person shall store any explosive of the fifth (fulminate) class, except in premises in respect of which a licence to manufacture explosives is granted for the purposes of section 227 and in a place in those premises specified in the licence.

Compare: 1957 No 19 ss 27, 28

235 Certain explosives not to be carried without consent of Authority

(1) No person shall carry or cause to be carried on any vehicle or in any vessel an explosive of the fifth (fulminate) class, unless that person is authorised in writing to do so by the Authority.

(2) Nothing in this section shall apply with respect to the carriage in any vessel arriving in New Zealand from any other country of any explosive intended for importation pursuant to an entry permit granted for the purposes of section 225.

Compare: 1957 No 19 s 39

236 Licence required to carry certain explosives

(1) Subject to subsections (3) to (5) and (7) to (9), no person shall carry on any vehicle or in any vessel any explosive unless that person is the holder of a licence to carry explosives granted by the Authority.

(2) A licence granted for the purposes of this section may authorise the carriage of explosives in vehicles and vessels generally or may authorise the carriage in a specified vehicle or vessel, as the Authority thinks fit, but no person shall carry any explosive in any vehicle or vessel under the authority of the licence, unless the vehicle or vessel is so fitted as to comply with the provisions of regulations 42 to 62 of the Explosives Regulations 1959; and those regulations shall continue to apply with the necessary modifications.

(3) Any person may carry explosives in quantities not exceeding 50 kilograms intended for private use (and not for hire or for sale) if the explosives are adequately secured to the vehicle or vessel to prevent movement of the load and are protected by wrapping in tarpaulin or other suitable means from the weather and from grit, iron, steel, sparks, or other sources of ignition or explosion.

(4) Any person employed by the Authority may, in the course of his or her duties under this Act, carry or cause to be carried such samples of explosives as are reasonably necessary.

(5) Where, before the date of commencement of this Act, any person held a licence to carry explosives granted under section 40 of the Explosives Act 1957, that licence shall be deemed to be a licence granted by the Authority for the purposes of this section.

(6) Where, before the date of commencement of this Act, any person had made an application for a licence to carry explosives under section 40 of the Explosives Act 1957, that application may be continued and determined in all respects (including any subsequent right of appeal) under the Explosives Act 1957 as if this Act had not been enacted.

(7) Nothing in this section shall apply with respect to the carriage in any vessel arriving in New Zealand from any other country of explosives intended for importation pursuant to an entry permit granted for the purposes of section 225 or for through transit.

(8) Nothing in this section shall apply to the carriage of explosives of the first division of the sixth (ammunition) class or the third division of the seventh (fireworks) class if no other explosives are carried with them, but the person carrying such explosives shall take all reasonable precautions to protect those explosives from the weather and to prevent the risk of fire or explosion.

(9) The granting or declining of an application to which subsection (6) applies shall constitute the granting or declining of an application by the Authority for the purposes of this Part, notwithstanding that all the requirements of this Part or of Part 11 in relation to that application and determination may not have been complied with.

Compare: 1957 No 19 s 40

237 Carriage of explosives in vehicles or vessels carrying passengers

(1) No person shall carry any explosive of the fifth (fulminate) class or of the first division of the seventh (firework) class in any vehicle which is carrying or plying for the carriage of passengers for hire or reward.

(2) Subject to subsection (1), no person shall carry or cause to be carried any explosive in a quantity in excess of 2.5 kilograms in any vehicle which is carrying or plying for the carriage of passengers for hire or reward unless the explosive is so secured and protected as to prevent unauthorised access thereto or danger from fire or explosion.

(3) No person shall carry or cause to be carried any explosive on any vessel carrying, or plying for the carriage of, passengers for hire or reward, except in compliance with the provisions in that behalf of the Maritime Transport Act 1994 and the rules and regulations in force under that Act.

Compare: 1957 No 19 s 41

238 Firework displays

No person shall discharge any firework of the second division of the seventh (firework) class for the purpose of a firework display, except pursuant to a permit granted to the organiser of that display by the Authority and subject to such terms and conditions in the permit as the Authority imposes, having regard to the interests of the public safety and of the safety of any person.

Compare: 1957 No 19 s 50

239 Private storage

(1) This Part shall not apply in respect of the following quantities of explosives for private use only (but not for sale):

Explosive	Quantity
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If adapted and intended exclusively for use in cartridges for small arms---

(a) gunpowder Not more than 15 kilograms:

(b) any nitro compound Not more than 15 kilograms:

If not adapted and intended exclusively for use in cartridges for small arms---

(a) gunpowder Not more than 5 kilograms:

(b) any explosive other than gunpowder stored together with not more than 100 detonators Not more than 2.5 kilograms:

(c) gunpowder stored together with any other explosive and not more than 100 detonators Not more than the equivalent of 2.5 kilograms of that other explosive.

(2) For the purposes of subsection (1)(c), 2 kilograms of gunpowder shall be considered as equivalent to 1 kilogram of any other explosive.

(3) Any explosive stored pursuant to subsection (1) shall be stored in a building at a safe distance from any dwelling and, except in the case of any explosive that is in actual use, the building containing the explosive shall be securely locked and the explosive secured from risk of accident by fire or explosion.

Compare: 1957 No 19 s 26

240 Conditions of licence

Every licence to manufacture explosives may contain such terms and conditions as the Authority thinks fit, and may also specify such of the following matters as the Authority thinks fit:

(a) the factory location:

(b) the factory construction:

(c) the maximum amount of explosives and ingredients thereof permitted in the factory:

(d) the names and compositions of explosives to be manufactured:

(e) such other terms as the Authority thinks fit by reason of any circumstances connected with the locality, the situation or construction of any buildings or works, or otherwise having regard to the safety of the public.

Compare: 1957 No 19 s 19

241 Public magazines

The Authority may appoint any place, building, cave, or any hulk or other floating vessel to be a public magazine for the storage of explosives of any specified class or division of explosive, subject to such terms and conditions as may be prescribed by regulations 20 to 27 of the Explosives Regulations 1959.

Compare: 1957 No 19 s 30

242 Private magazines

(1) No person shall store any explosives in a private magazine except in accordance with a licence granted by the Authority.

(2) Every application made for a licence required by this section shall be accompanied by detailed plans (drawn to scale) of the proposed magazine and the site selected for its establishment, and such further information as the Authority may require.

(3) Where, before the date of commencement of this Act, any licence for a private magazine had been granted under section 31 of the Explosives Act 1957, that licence shall be deemed to be a licence granted by the Authority for the

purposes of this section.

(4) Where, before the date of commencement of this Act, any person had made an application for the storage of explosives in a private magazine under section 31 of the Explosives Act 1957, that application may be continued and determined in all respects (including any subsequent right of appeal) under the Explosives Act 1957 as if this Act had not been enacted.

(5) The granting or declining of an application to which subsection (4) applies shall constitute the granting or declining of an application by the Authority for the purposes of this Part, notwithstanding that all the requirements of this Part or of Part 11 in relation to that application and determination may not have been complied with.

Compare: 1957 No 19 s 31

243 Private magazine not to be altered without consent

(1) The holder of a licence to store explosives in a private magazine shall maintain every part of the magazine in accordance with its description in the licence and shall not, except with the prior written consent of the Authority, make any material alteration in the magazine or its surroundings.

(2) The Authority may consent to the alteration of a private magazine if it is satisfied that the safety of any person will not be endangered by the alteration; and any such consent shall be deemed to be a term of the licence.

(3) Where, after a licence is granted for the purposes of this section, any building or work is constructed or located closer to any other building or work than is specified in the licence, or any place or building is occupied or used otherwise than as specified in the licence without the prior written consent of the Authority, the licence shall be void.

Compare: 1957 No 19 s 32

244 Danger buildings

(1) Subject to subsection (2), where in any building, or part of a building, or in any magazine (whether a building or part of a building or not) there is stored or present, or in the course of manufacture is liable to be stored or present---

(a) any explosive; or

(b) any partly manufactured explosive; or

(c) any ingredient of any explosive which is either by itself possessed of explosive properties or when mixed with another ingredient or article also present in the building is capable of forming an explosive mixture or an explosive compound,---

that building or magazine shall, for the purposes of this Part, be deemed to be a danger building.

(2) No person shall use any danger building for any purpose other than the

storage or manufacture of explosives and the keeping of tools or implements or machinery of types approved by the Authority for work connected with the storage and manufacture of explosives.

(3) The Authority may exempt any building which would otherwise be a danger building under subsection (1), and may approve any type of tool, implement, or machinery for use in connection with danger buildings under subsection (2).

(4) Except as provided in a licence to manufacture explosives, no person shall take into any danger building any charcoal (whether ground or otherwise) or oiled cotton or oil rags or oiled waste or any article or substance liable to spontaneous ignition.

(5) Where, before the date of commencement of this Act, any building, or part of a building, or magazine had been declared not to be a danger building within the meaning of section 33 of the Explosives Act 1957---

(a) in any licence under the Explosives Act 1957; or

(b) by any certificate in writing from an Inspector under the Explosives Act 1957,---

that building shall not be a danger building for the purposes of this Part.

(6) Where, before the date of commencement of this Act, any type of tools, implements, or machinery had been approved by an Inspector for the purposes of section 33 of the Explosives Act 1957 for use in a danger building, they shall be deemed to have been approved by the Authority for the purposes of subsection (2) of this section.

(7) The provisions of regulations 28 to 34 of the Explosives Regulations 1959 shall apply, with the necessary modifications, to danger buildings under this Part.

Compare: 1957 No 19 s 33

245 Notices on danger buildings

(1) The licensee of premises on which there is a danger building shall cause to be affixed and maintained on the outside of the building, conspicuously displayed, a notice on which are legibly painted the words "DANGER---EXPLOSIVES", or such equivalent words as may be approved by the Authority.

(2) The licensee of premises on which there is a danger building shall cause to be affixed and maintained inside the building, in such a position as to be easily read, a notice setting out the quantity of explosives, or partly manufactured explosives, or ingredients of explosives allowed to be in the building and such particulars as to the number of persons allowed in the building and the operations permitted or tools permitted to be used in the building as may be required by the Authority.

(3) Where, before the date of commencement of this Act, any equivalent words had been approved under section 34(1) of the Explosives Act 1957 or any particulars had been required under section 34(2) of that Act, that approval or requirement shall be deemed to be an approval or requirement made by the

Authority for the purposes of subsections (1) and (2) of this section.

Compare: 1957 No 19 s 34

246 Repairs or alterations to danger buildings

No person shall make or cause to be made any repairs or alterations to or in any room or part of a danger building unless the room or part has been cleared of all explosives, partly manufactured explosives, and wholly or partially mixed ingredients of explosives, and has been thoroughly decontaminated in a manner approved by the Authority.

Compare: 1957 No 19 s 35

247 Protective clothing, etc

(1) Regulation 31 of the Explosives Regulations 1959 shall apply, with the necessary modifications, to danger buildings under this Part and---

(a) every person while working in a danger building shall wear such clothing as prescribed by that regulation; and

(b) every person entering a danger building (whether employed there or not) shall wear footwear of a type prescribed by that regulation.

(2) No person shall bring into any danger building any matches, cigarette lighter, or any substance or article likely to cause explosion or fire.

(3) The holder of any licence granted for the purposes of this Part to manufacture explosives or to store explosives shall ensure by notification or other adequate means of instruction, and by frequent inspection, that the provisions of subsections (1) and (2) are complied with.

Compare: 1957 No 19 s 36

248 Employment of young persons in danger buildings

(1) No person under the age of 18 years shall be employed in or be permitted to enter a danger building, except in the presence and under the supervision of a person aged 20 years or more.

(2) Where any person is employed in or permitted to enter a danger building in breach of the provisions of this section, the occupier of the danger building commits an offence against this Act.

Compare: 1957 No 19 s 37

249 Packing and marking of explosives

(1) No person shall deliver any explosives to any person for carriage or storage or shall carry or store any explosives, unless the explosives are packed and labelled, branded, or marked in accordance with the regulations specified in subsection (2).

(2) Regulations 64 to 67 of the Explosives Regulations 1959 shall apply,

with the necessary modifications, to the packaging of explosives under this Part.

(3) The Authority may grant an exemption from any requirement under subsection (2), either by way of complete exemption or by way of modification of the particular requirement or requirements, subject to any alternative conditions it may impose.

Compare: 1957 No 19 s 43

250 Handling of explosives

(1) No person shall load or unload any explosive on, to, or from any vehicle or vessel in or upon any street, road, public thoroughfare, or highway except---

(a) in the course of loading or unloading the explosive at premises in respect of which a licence under this Part is in force for the sale or storage of explosives where there is no other means of access to the premises; or

(b) for immediate use in connection with blasting operations in the vicinity; or

(c) in an emergency involving that vehicle or vessel.

(2) Subject to subsection (4), regulation 63 of the Explosive Regulations 1959 shall apply, with the necessary modifications, to the handling of explosives under this Part, and every person engaged in loading, unloading, shipping, transshipping, or discharging explosives on, to, or from any vehicle or vessel shall observe the rules for handling explosives prescribed in that regulation.

(3) Subject to subsection (4), every person engaged in the loading, unloading, or carriage of explosives shall take such other precautions as are necessary for the prevention of accident by fire or explosion and to prevent access by unauthorised persons to the explosives or into the vicinity of the explosives.

(4) The provisions of subsections (2) and (3) shall not apply to the handling of explosives of the first division of the sixth (ammunition) class or the third division of the seventh (fireworks) class, but the person handling such explosives shall take all reasonable precautions for the prevention of accident by fire or explosion.

Compare: 1957 No 19 ss 44, 45

251 Abandonment or disposal of explosives

(1) No person shall---

(a) abandon any explosive (whether in a public place or not); or

(b) leave any explosive unattended in a public place; or

(c) leave any explosive in any place (not being a public place) other than in a building that is kept securely locked; or

(d) bury any explosive; or

(e) dispose of any explosive (otherwise than by using the same) except in a manner approved by the Authority, unless the person is the holder of a licence for the purposes of this Part to manufacture or sell explosives; or

(f) being the occupier of any premises in which any explosive is stored, deliver the possession of those premises to any other person without notifying that person of the presence of the explosive in the premises.

(2) For the purposes of this section,---

explosive does not include any explosive of the first division of the sixth (ammunition) class or the third division of the seventh (firework) class

public place includes a road, street, footpath, footway, court, alley, or thoroughfare of a public nature, or open to or used by the public as of right, a public reserve, any foreshore, and any other place of public recreation or resort.

Compare: 1957 No 19 s 48

252 Damaged, defective, or unsafe explosives

(1) Where any explosive is found to be damaged or for any reason to be unfit or dangerous for use, the owner, or, if the explosive is not in the custody of the owner, the person for the time being having custody of the explosive, shall forthwith give notice thereof to the Authority.

(2) Upon receipt of any notice under subsection (1), the Authority may take such action as it thinks fit.

Compare: 1957 No 19 s 49

253 Continuation of regulations

(1) Subject to subsections (2), (3), and (4), for the purposes of this Part, the Explosives Regulations 1959 shall apply, with the necessary modifications, to all explosives.

(2) Every reference in the regulations specified in subsection (1) to any provision contained in the Explosives Act 1957 shall, where appropriate, be deemed to be a reference to any equivalent provision of this Part or of Part D of Schedule 7.

(3) Without limiting the generality of subsections (1) and (2), every reference in the regulations specified in subsection (1)---

(a) to the Chief Inspector, Inspector, or Licensing Authority shall be read as a reference to the Authority:

(b) to the Minister shall be read as a reference to the Minister for the Environment.

(4) The provisions of this section shall not affect the valid exercise of any power or function by the Chief Inspector, Inspector, Licensing Authority, or Minister under the Explosives Act 1957, or under any regulations made under that Act, which was carried out before the date of commencement of this Act.

Part 16
Transitional provisions---New organisms
(Expired)

Part 16: expired, on 29 July 2001, by section 152(1).

Animals
(Expired)

Heading: expired, on 29 July 2001, by section 152(1).

254 Animals

Expired.

Section 254: expired, on 29 July 2001, by section 152(1).

255 Zoological gardens

Expired.

Section 255: expired, on 29 July 2001, by section 152(1).

256 Hamsters

Expired.

Section 256: expired, on 29 July 2001, by section 152(1).

257 Approvals for genetically modified organisms

Expired.

Section 257: expired, on 29 July 2001, by section 152(1).

Plants
(Expired)

Heading: expired, on 29 July 2001, by section 152(1).

258 Import permits

Expired.

Section 258: expired, on 29 July 2001, by section 152(1).

259 Micro-organisms lawfully in use

Expired.

Section 259: expired, on 29 July 2001, by section 152(1).

Schedule 1AA s 2(1)
Stockholm Convention on Persistent Organic Pollutants

The Parties to this Convention,

Recognizing that persistent organic pollutants possess toxic properties, resist degradation, bioaccumulate and are transported, through air, water and migratory species, across international boundaries and deposited far from their place of release, where they accumulate in terrestrial and aquatic ecosystems,

Aware of the health concerns, especially in developing countries, resulting from local exposure to persistent organic pollutants, in particular impacts upon women and, through them, upon future generations,

Acknowledging that the Arctic ecosystems and indigenous communities are particularly at risk because of the biomagnification of persistent organic pollutants and that contamination of their traditional foods is a public health issue,

Conscious of the need for global action on persistent organic pollutants,

Mindful of decision 19/13 C of 7 February 1997 of the Governing Council of the United Nations Environment Programme to initiate international action to protect human health and the environment through measures which will reduce and/or eliminate emissions and discharges of persistent organic pollutants,

Recalling the pertinent provisions of the relevant international environmental conventions, especially the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal including the regional agreements developed within the framework of its Article 11,

Recalling also the pertinent provisions of the Rio Declaration on Environment and Development and Agenda 21,

Acknowledging that precaution underlies the concerns of all the Parties and is embedded within this Convention,

Recognizing that this Convention and other international agreements in the field of trade and the environment are mutually supportive,

Reaffirming that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,

Taking into account the circumstances and particular requirements of

developing countries, in particular the least developed among them, and countries with economies in transition, especially the need to strengthen their national capabilities for the management of chemicals, including through the transfer of technology, the provision of financial and technical assistance and the promotion of cooperation among the Parties,

Taking full account of the Programme of Action for the Sustainable Development of Small Island Developing States, adopted in Barbados on 6 May 1994,

Noting the respective capabilities of developed and developing countries, as well as the common but differentiated responsibilities of States as set forth in Principle 7 of the Rio Declaration on Environment and Development,

Recognizing the important contribution that the private sector and non-governmental organizations can make to achieving the reduction and/or elimination of emissions and discharges of persistent organic pollutants,

Underlining the importance of manufacturers of persistent organic pollutants taking responsibility for reducing adverse effects caused by their products and for providing information to users, Governments and the public on the hazardous properties of those chemicals,

Conscious of the need to take measures to prevent adverse effects caused by persistent organic pollutants at all stages of their life cycle,

Reaffirming Principle 16 of the Rio Declaration on Environment and Development which states that national authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment,

Encouraging Parties not having regulatory and assessment schemes for pesticides and industrial chemicals to develop such schemes,

Recognizing the importance of developing and using environmentally sound alternative processes and chemicals,

Determined to protect human health and the environment from the harmful impacts of persistent organic pollutants,

Have agreed as follows:

Article 1

Objective

Mindful of the precautionary approach as set forth in Principle 15 of the Rio Declaration on Environment and Development, the objective of this Convention is to protect human health and the environment from persistent organic pollutants.

Article 2

Definitions

For the purposes of this Convention:

(a) "Party" means a State or regional economic integration organization that has consented to be bound by this Convention and for which the Convention is in force;

(b) "Regional economic integration organization" means an organization constituted by sovereign States of a given region to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to this Convention;

(c) "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article 3

Measures to reduce or eliminate releases from intentional production and use

1. Each Party shall:

(a) Prohibit and/or take the legal and administrative measures necessary to eliminate:

(i) Its production and use of the chemicals listed in Annex A subject to the provisions of that Annex; and

(ii) Its import and export of the chemicals listed in Annex A in accordance with the provisions of paragraph 2; and

(b) Restrict its production and use of the chemicals listed in Annex B in accordance with the provisions of that Annex.

2. Each Party shall take measures to ensure:

(a) That a chemical listed in Annex A or Annex B is imported only:

(i) For the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6; or

(ii) For a use or purpose which is permitted for that Party under Annex A or Annex B;

(b) That a chemical listed in Annex A for which any production or use specific exemption is in effect or a chemical listed in Annex B for which any production or use specific exemption or acceptable purpose is in effect, taking into account any relevant provisions in existing international prior informed consent instruments, is exported only:

(i) For the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6;

(ii) To a Party which is permitted to use that chemical under Annex A or Annex B; or

(iii) To a State not Party to this Convention which has provided an annual certification to the exporting Party. Such certification shall specify the intended use of the chemical and include a statement that, with respect to that chemical, the importing State is committed to:

- a. Protect human health and the environment by taking the necessary measures to minimize or prevent releases;
- b. Comply with the provisions of paragraph 1 of Article 6; and
- c. Comply, where appropriate, with the provisions of paragraph 2 of Part II of Annex B.

The certification shall also include any appropriate supporting documentation, such as legislation, regulatory instruments, or administrative or policy guidelines. The exporting Party shall transmit the certification to the Secretariat within sixty days of receipt.

(c) That a chemical listed in Annex A, for which production and use specific exemptions are no longer in effect for any Party, is not exported from it except for the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6;

(d) For the purposes of this paragraph, the term "State not Party to this Convention" shall include, with respect to a particular chemical, a State or regional economic integration organization that has not agreed to be bound by the Convention with respect to that chemical.

3. Each Party that has one or more regulatory and assessment schemes for new pesticides or new industrial chemicals shall take measures to regulate with the aim of preventing the production and use of new pesticides or new industrial chemicals which, taking into consideration the criteria in paragraph 1 of Annex D, exhibit the characteristics of persistent organic pollutants.

4. Each Party that has one or more regulatory and assessment schemes for pesticides or industrial chemicals shall, where appropriate, take into consideration within these schemes the criteria in paragraph 1 of Annex D when conducting assessments of pesticides or industrial chemicals currently in use.

5. Except as otherwise provided in this Convention, paragraphs 1 and 2 shall not apply to quantities of a chemical to be used for laboratory-scale research or as a reference standard.

6. Any Party that has a specific exemption in accordance with Annex A or a specific exemption or an acceptable purpose in accordance with Annex B shall take appropriate measures to ensure that any production or use under such exemption or purpose is carried out in a manner that prevents or minimizes human exposure and release into the environment. For exempted uses or acceptable purposes that involve intentional release into the environment under conditions of normal use, such release shall be to the minimum extent necessary, taking into account any applicable standards and guidelines.

Article 4

Register of specific exemptions

1. A Register is hereby established for the purpose of identifying the Parties that have specific exemptions listed in Annex A or Annex B. It shall not identify Parties that make use of the provisions in Annex A or Annex B that may be exercised by all Parties. The Register shall be maintained by the Secretariat and shall be available to the public.
2. The Register shall include:
 - (a) A list of the types of specific exemptions reproduced from Annex A and Annex B;
 - (b) A list of the Parties that have a specific exemption listed under Annex A or Annex B; and
 - (c) A list of the expiry dates for each registered specific exemption.
3. Any State may, on becoming a Party, by means of a notification in writing to the Secretariat, register for one or more types of specific exemptions listed in Annex A or Annex B.
4. Unless an earlier date is indicated in the Register by a Party, or an extension is granted pursuant to paragraph 7, all registrations of specific exemptions shall expire five years after the date of entry into force of this Convention with respect to a particular chemical.
5. At its first meeting, the Conference of the Parties shall decide upon its review process for the entries in the Register.
6. Prior to a review of an entry in the Register, the Party concerned shall submit a report to the Secretariat justifying its continuing need for registration of that exemption. The report shall be circulated by the Secretariat to all Parties. The review of a registration shall be carried out on the basis of all available information. Thereupon, the Conference of the Parties may make such recommendations to the Party concerned as it deems appropriate.
7. The Conference of the Parties may, upon request from the Party concerned, decide to extend the expiry date of a specific exemption for a period of up to five years. In making its decision, the Conference of the Parties shall take due account of the special circumstances of the developing country Parties and Parties with economies in transition.
8. A Party may, at any time, withdraw an entry from the Register for a specific exemption upon written notification to the Secretariat. The withdrawal shall take effect on the date specified in the notification.
9. When there are no longer any Parties registered for a particular type of specific exemption, no new registrations may be made with respect to it.

Article 5

Measures to reduce or eliminate releases from
unintentional production

Each Party shall at a minimum take the following measures to reduce the total releases derived from anthropogenic sources of each of the chemicals listed in Annex C, with the goal of their continuing minimization and, where feasible, ultimate elimination:

(a) Develop an action plan or, where appropriate, a regional or subregional action plan within two years of the date of entry into force of this Convention for it, and subsequently implement it as part of its implementation plan specified in Article 7, designed to identify, characterize and address the release of the chemicals listed in Annex C and to facilitate implementation of subparagraphs (b) to (e). The action plan shall include the following elements:

(i) An evaluation of current and projected releases, including the development and maintenance of source inventories and release estimates, taking into consideration the source categories identified in Annex C;

(ii) An evaluation of the efficacy of the laws and policies of the Party relating to the management of such releases;

(iii) Strategies to meet the obligations of this paragraph, taking into account the evaluations in (i) and (ii);

(iv) Steps to promote education and training with regard to, and awareness of, those strategies;

(v) A review every five years of those strategies and of their success in meeting the obligations of this paragraph; such reviews shall be included in reports submitted pursuant to Article 15;

(vi) A schedule for implementation of the action plan, including for the strategies and measures identified therein;

(b) Promote the application of available, feasible and practical measures that can expeditiously achieve a realistic and meaningful level of release reduction or source elimination;

(c) Promote the development and, where it deems appropriate, require the use of substitute or modified materials, products and processes to prevent the formation and release of the chemicals listed in Annex C, taking into consideration the general guidance on prevention and release reduction measures in Annex C and guidelines to be adopted by decision of the Conference of the Parties;

(d) Promote and, in accordance with the implementation schedule of its action plan, require the use of best available techniques for new sources within source categories which a Party has identified as warranting such action in its action plan, with a particular initial focus on source categories identified in Part II of Annex C. In any case, the requirement to use best available techniques for new sources in the categories listed in Part II of that Annex shall be phased in as soon as practicable but no later than four years after the entry into force of the Convention for that Party. For the

identified categories, Parties shall promote the use of best environmental practices. When applying best available techniques and best environmental practices, Parties should take into consideration the general guidance on prevention and release reduction measures in that Annex and guidelines on best available techniques and best environmental practices to be adopted by decision of the Conference of the Parties;

(e) Promote, in accordance with its action plan, the use of best available techniques and best environmental practices:

(i) For existing sources, within the source categories listed in Part II of Annex C and within source categories such as those in Part III of that Annex; and

(ii) For new sources, within source categories such as those listed in Part III of Annex C which a Party has not addressed under subparagraph (d).

When applying best available techniques and best environmental practices, Parties should take into consideration the general guidance on prevention and release reduction measures in Annex C and guidelines on best available techniques and best environmental practices to be adopted by decision of the Conference of the Parties;

(f) For the purposes of this paragraph and Annex C:

(i) "Best available techniques" means the most effective and advanced stage in the development of activities and their methods of operation which indicate the practical suitability of particular techniques for providing in principle the basis for release limitations designed to prevent and, where that is not practicable, generally to reduce releases of chemicals listed in Part I of Annex C and their impact on the environment as a whole. In this regard:

(ii) "Techniques" includes both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned;

(iii) "Available" techniques means those techniques that are accessible to the operator and that are developed on a scale that allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages; and

(iv) "Best" means most effective in achieving a high general level of protection of the environment as a whole;

(v) "Best environmental practices" means the application of the most appropriate combination of environmental control measures and strategies;

(vi) "New source" means any source of which the construction or substantial modification is commenced at least one year after the date of:

a. Entry into force of this Convention for the Party concerned;
or

b. Entry into force for the Party concerned of an amendment to Annex C where the source becomes subject to the provisions of this Convention only by virtue of that amendment.

(g) Release limit values or performance standards may be used by a Party to fulfill its commitments for best available techniques under this paragraph.

Article 6

Measures to reduce or eliminate releases from stockpiles and wastes

1. In order to ensure that stockpiles consisting of or containing chemicals listed either in Annex A or Annex B and wastes, including products and articles upon becoming wastes, consisting of, containing or contaminated with a chemical listed in Annex A, B or C, are managed in a manner protective of human health and the environment, each Party shall:

(a) Develop appropriate strategies for identifying:

(i) Stockpiles consisting of or containing chemicals listed either in Annex A or Annex B; and

(ii) Products and articles in use and wastes consisting of, containing or contaminated with a chemical listed in Annex A, B or C;

(b) Identify, to the extent practicable, stockpiles consisting of or containing chemicals listed either in Annex A or Annex B on the basis of the strategies referred to in subparagraph (a);

(c) Manage stockpiles, as appropriate, in a safe, efficient and environmentally sound manner. Stockpiles of chemicals listed either in Annex A or Annex B, after they are no longer allowed to be used according to any specific exemption specified in Annex A or any specific exemption or acceptable purpose specified in Annex B, except stockpiles which are allowed to be exported according to paragraph 2 of Article 3, shall be deemed to be waste and shall be managed in accordance with subparagraph (d);

(d) Take appropriate measures so that such wastes, including products and articles upon becoming wastes, are:

(i) Handled, collected, transported and stored in an environmentally sound manner;

(ii) Disposed of in such a way that the persistent organic pollutant content is destroyed or irreversibly transformed so that they do not exhibit the characteristics of persistent organic pollutants or otherwise disposed of in an environmentally sound manner when destruction or irreversible transformation does not represent the environmentally preferable option or the persistent organic pollutant content is low, taking into account international rules, standards, and guidelines, including those that may be developed pursuant to paragraph 2, and relevant global and regional regimes governing the management of hazardous wastes;

(iii) Not permitted to be subjected to disposal operations that may lead to recovery, recycling, reclamation, direct reuse or alternative uses of persistent organic pollutants; and

(iv) Not transported across international boundaries without taking into account relevant international rules, standards and guidelines;

(e) Endeavour to develop appropriate strategies for identifying sites contaminated by chemicals listed in Annex A, B or C; if remediation of those sites is undertaken it shall be performed in an environmentally sound manner.

2. The Conference of the Parties shall cooperate closely with the appropriate bodies of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal to, inter alia:

(a) Establish levels of destruction and irreversible transformation necessary to ensure that the characteristics of persistent organic pollutants as specified in paragraph 1 of Annex D are not exhibited;

(b) Determine what they consider to be the methods that constitute environmentally sound disposal referred to above; and

(c) Work to establish, as appropriate, the concentration levels of the chemicals listed in Annexes A, B and C in order to define the low persistent organic pollutant content referred to in paragraph 1 (d)(ii).

Article 7

Implementation plans

1. Each Party shall:

(a) Develop and endeavour to implement a plan for the implementation of its obligations under this Convention;

(b) Transmit its implementation plan to the Conference of the Parties within two years of the date on which this Convention enters into force for it; and

(c) Review and update, as appropriate, its implementation plan on a periodic basis and in a manner to be specified by a decision of the Conference of the Parties.

2. The Parties shall, where appropriate, cooperate directly or through global, regional and subregional organizations, and consult their national stakeholders, including women's groups and groups involved in the health of children, in order to facilitate the development, implementation and updating of their implementation plans.

3. The Parties shall endeavour to utilize and, where necessary, establish the means to integrate national implementation plans for persistent organic pollutants in their sustainable development strategies where appropriate.

Article 8

Listing of chemicals in Annexes A, B and C

1. A Party may submit a proposal to the Secretariat for listing a chemical in Annexes A, B and/or C. The proposal shall contain the information specified in

Annex D. In developing a proposal, a Party may be assisted by other Parties and/or by the Secretariat.

2. The Secretariat shall verify whether the proposal contains the information specified in Annex D. If the Secretariat is satisfied that the proposal contains the information so specified, it shall forward the proposal to the Persistent Organic Pollutants Review Committee.

3. The Committee shall examine the proposal and apply the screening criteria specified in Annex D in a flexible and transparent way, taking all information provided into account in an integrative and balanced manner.

4. If the Committee decides that:

(a) It is satisfied that the screening criteria have been fulfilled, it shall, through the Secretariat, make the proposal and the evaluation of the Committee available to all Parties and observers and invite them to submit the information specified in Annex E; or

(b) It is not satisfied that the screening criteria have been fulfilled, it shall, through the Secretariat, inform all Parties and observers and make the proposal and the evaluation of the Committee available to all Parties and the proposal shall be set aside.

5. Any Party may resubmit a proposal to the Committee that has been set aside by the Committee pursuant to paragraph 4. The resubmission may include any concerns of the Party as well as a justification for additional consideration by the Committee. If, following this procedure, the Committee again sets the proposal aside, the Party may challenge the decision of the Committee and the Conference of the Parties shall consider the matter at its next session. The Conference of the Parties may decide, based on the screening criteria in Annex D and taking into account the evaluation of the Committee and any additional information provided by any Party or observer, that the proposal should proceed.

6. Where the Committee has decided that the screening criteria have been fulfilled, or the Conference of the Parties has decided that the proposal should proceed, the Committee shall further review the proposal, taking into account any relevant additional information received, and shall prepare a draft risk profile in accordance with Annex E. It shall, through the Secretariat, make that draft available to all Parties and observers, collect technical comments from them and, taking those comments into account, complete the risk profile.

7. If, on the basis of the risk profile conducted in accordance with Annex E, the Committee decides:

(a) That the chemical is likely as a result of its long-range environmental transport to lead to significant adverse human health and/or environmental effects such that global action is warranted, the proposal shall proceed. Lack of full scientific certainty shall not prevent the proposal from proceeding. The Committee shall, through the Secretariat, invite information from all Parties and observers relating to the considerations specified in Annex F. It shall then prepare a risk management evaluation that includes an analysis of possible control measures for the chemical in accordance with that Annex; or

(b) That the proposal should not proceed, it shall, through the Secretariat, make the risk profile available to all Parties and observers and set the proposal aside.

8. For any proposal set aside pursuant to paragraph 7 (b), a Party may request the Conference of the Parties to consider instructing the Committee to invite additional information from the proposing Party and other Parties during a period not to exceed one year. After that period and on the basis of any information received, the Committee shall reconsider the proposal pursuant to paragraph 6 with a priority to be decided by the Conference of the Parties. If, following this procedure, the Committee again sets the proposal aside, the Party may challenge the decision of the Committee and the Conference of the Parties shall consider the matter at its next session. The Conference of the Parties may decide, based on the risk profile prepared in accordance with Annex E and taking into account the evaluation of the Committee and any additional information provided by any Party or observer, that the proposal should proceed. If the Conference of the Parties decides that the proposal shall proceed, the Committee shall then prepare the risk management evaluation.

9. The Committee shall, based on the risk profile referred to in paragraph 6 and the risk management evaluation referred to in paragraph 7 (a) or paragraph 8, recommend whether the chemical should be considered by the Conference of the Parties for listing in Annexes A, B and/or C. The Conference of the Parties, taking due account of the recommendations of the Committee, including any scientific uncertainty, shall decide, in a precautionary manner, whether to list the chemical, and specify its related control measures, in Annexes A, B and/or C.

Article 9

Information exchange

1. Each Party shall facilitate or undertake the exchange of information relevant to:

(a) The reduction or elimination of the production, use and release of persistent organic pollutants; and

(b) Alternatives to persistent organic pollutants, including information relating to their risks as well as to their economic and social costs.

2. The Parties shall exchange the information referred to in paragraph 1 directly or through the Secretariat.

3. Each Party shall designate a national focal point for the exchange of such information.

4. The Secretariat shall serve as a clearing-house mechanism for information on persistent organic pollutants, including information provided by Parties, intergovernmental organizations and non-governmental organizations.

5. For the purposes of this Convention, information on health and safety of humans and the environment shall not be regarded as confidential. Parties that exchange other information pursuant to this Convention shall protect any confidential information as mutually agreed.

Article 10

Public information, awareness and education

1. Each Party shall, within its capabilities, promote and facilitate:
 - (a) Awareness among its policy and decision makers with regard to persistent organic pollutants;
 - (b) Provision to the public of all available information on persistent organic pollutants, taking into account paragraph 5 of Article 9;
 - (c) Development and implementation, especially for women, children and the least educated, of educational and public awareness programmes on persistent organic pollutants, as well as on their health and environmental effects and on their alternatives;
 - (d) Public participation in addressing persistent organic pollutants and their health and environmental effects and in developing adequate responses, including opportunities for providing input at the national level regarding implementation of this Convention;
 - (e) Training of workers, scientists, educators and technical and managerial personnel;
 - (f) Development and exchange of educational and public awareness materials at the national and international levels; and
 - (g) Development and implementation of education and training programmes at the national and international levels.
2. Each Party shall, within its capabilities, ensure that the public has access to the public information referred to in paragraph 1 and that the information is kept up-to-date.
3. Each Party shall, within its capabilities, encourage industry and professional users to promote and facilitate the provision of the information referred to in paragraph 1 at the national level and, as appropriate, subregional, regional and global levels.
4. In providing information on persistent organic pollutants and their alternatives, Parties may use safety data sheets, reports, mass media and other means of communication, and may establish information centres at national and regional levels.
5. Each Party shall give sympathetic consideration to developing mechanisms, such as pollutant release and transfer registers, for the collection and dissemination of information on estimates of the annual quantities of the chemicals listed in Annex A, B or C that are released or disposed of.

Article 11

Research, development and monitoring

1. The Parties shall, within their capabilities, at the national and international levels, encourage and/or undertake appropriate research, development, monitoring and cooperation pertaining to persistent organic pollutants and, where relevant, to their alternatives and to candidate persistent organic pollutants, including on their:

- (a) Sources and releases into the environment;
- (b) Presence, levels and trends in humans and the environment;
- (c) Environmental transport, fate and transformation;
- (d) Effects on human health and the environment;
- (e) Socio-economic and cultural impacts;
- (f) Release reduction and/or elimination; and
- (g) Harmonized methodologies for making inventories of generating sources and analytical techniques for the measurement of releases.

2. In undertaking action under paragraph 1, the Parties shall, within their capabilities:

- (a) Support and further develop, as appropriate, international programmes, networks and organizations aimed at defining, conducting, assessing and financing research, data collection and monitoring, taking into account the need to minimize duplication of effort;
- (b) Support national and international efforts to strengthen national scientific and technical research capabilities, particularly in developing countries and countries with economies in transition, and to promote access to, and the exchange of, data and analyses;
- (c) Take into account the concerns and needs, particularly in the field of financial and technical resources, of developing countries and countries with economies in transition and cooperate in improving their capability to participate in the efforts referred to in subparagraphs (a) and (b);
- (d) Undertake research work geared towards alleviating the effects of persistent organic pollutants on reproductive health;
- (e) Make the results of their research, development and monitoring activities referred to in this paragraph accessible to the public on a timely and regular basis; and
- (f) Encourage and/or undertake cooperation with regard to storage and maintenance of information generated from research, development and monitoring.

Article 12

Technical assistance

1. The Parties recognize that rendering of timely and appropriate technical assistance in response to requests from developing country Parties and Parties

with economies in transition is essential to the successful implementation of this Convention.

2. The Parties shall cooperate to provide timely and appropriate technical assistance to developing country Parties and Parties with economies in transition, to assist them, taking into account their particular needs, to develop and strengthen their capacity to implement their obligations under this Convention.
3. In this regard, technical assistance to be provided by developed country Parties, and other Parties in accordance with their capabilities, shall include, as appropriate and as mutually agreed, technical assistance for capacity-building relating to implementation of the obligations under this Convention. Further guidance in this regard shall be provided by the Conference of the Parties.
4. The Parties shall establish, as appropriate, arrangements for the purpose of providing technical assistance and promoting the transfer of technology to developing country Parties and Parties with economies in transition relating to the implementation of this Convention. These arrangements shall include regional and subregional centres for capacity-building and transfer of technology to assist developing country Parties and Parties with economies in transition to fulfil their obligations under this Convention. Further guidance in this regard shall be provided by the Conference of the Parties.
5. The Parties shall, in the context of this Article, take full account of the specific needs and special situation of least developed countries and small island developing states in their actions with regard to technical assistance.

Article 13

Financial resources and mechanisms

1. Each Party undertakes to provide, within its capabilities, financial support and incentives in respect of those national activities that are intended to achieve the objective of this Convention in accordance with its national plans, priorities and programmes.
2. The developed country Parties shall provide new and additional financial resources to enable developing country Parties and Parties with economies in transition to meet the agreed full incremental costs of implementing measures which fulfill their obligations under this Convention as agreed between a recipient Party and an entity participating in the mechanism described in paragraph 6. Other Parties may also on a voluntary basis and in accordance with their capabilities provide such financial resources. Contributions from other sources should also be encouraged. The implementation of these commitments shall take into account the need for adequacy, predictability, the timely flow of funds and the importance of burden sharing among the contributing Parties.
3. Developed country Parties, and other Parties in accordance with their capabilities and in accordance with their national plans, priorities and programmes, may also provide and developing country Parties and Parties with economies in transition avail themselves of financial resources to assist in their implementation of this Convention through other bilateral, regional and

multilateral sources or channels.

4. The extent to which the developing country Parties will effectively implement their commitments under this Convention will depend on the effective implementation by developed country Parties of their commitments under this Convention relating to financial resources, technical assistance and technology transfer. The fact that sustainable economic and social development and eradication of poverty are the first and overriding priorities of the developing country Parties will be taken fully into account, giving due consideration to the need for the protection of human health and the environment.

5. The Parties shall take full account of the specific needs and special situation of the least developed countries and the small island developing states in their actions with regard to funding.

6. A mechanism for the provision of adequate and sustainable financial resources to developing country Parties and Parties with economies in transition on a grant or concessional basis to assist in their implementation of the Convention is hereby defined. The mechanism shall function under the authority, as appropriate, and guidance of, and be accountable to the Conference of the Parties for the purposes of this Convention. Its operation shall be entrusted to one or more entities, including existing international entities, as may be decided upon by the Conference of the Parties. The mechanism may also include other entities providing multilateral, regional and bilateral financial and technical assistance. Contributions to the mechanism shall be additional to other financial transfers to developing country Parties and Parties with economies in transition as reflected in, and in accordance with, paragraph 2.

7. Pursuant to the objectives of this Convention and paragraph 6, the Conference of the Parties shall at its first meeting adopt appropriate guidance to be provided to the mechanism and shall agree with the entity or entities participating in the financial mechanism upon arrangements to give effect thereto. The guidance shall address, inter alia:

(a) The determination of the policy, strategy and programme priorities, as well as clear and detailed criteria and guidelines regarding eligibility for access to and utilization of financial resources including monitoring and evaluation on a regular basis of such utilization;

(b) The provision by the entity or entities of regular reports to the Conference of the Parties on adequacy and sustainability of funding for activities relevant to the implementation of this Convention;

(c) The promotion of multiple-source funding approaches, mechanisms and arrangements;

(d) The modalities for the determination in a predictable and identifiable manner of the amount of funding necessary and available for the implementation of this Convention, keeping in mind that the phasing out of persistent organic pollutants might require sustained funding, and the conditions under which that amount shall be periodically reviewed; and

(e) The modalities for the provision to interested Parties of assistance

with needs assessment, information on available sources of funds and on funding patterns in order to facilitate coordination among them.

8. The Conference of the Parties shall review, not later than its second meeting and thereafter on a regular basis, the effectiveness of the mechanism established under this Article, its ability to address the changing needs of the developing country Parties and Parties with economies in transition, the criteria and guidance referred to in paragraph 7, the level of funding as well as the effectiveness of the performance of the institutional entities entrusted to operate the financial mechanism. It shall, based on such review, take appropriate action, if necessary, to improve the effectiveness of the mechanism, including by means of recommendations and guidance on measures to ensure adequate and sustainable funding to meet the needs of the Parties.

Article 14

Interim financial arrangements

The institutional structure of the Global Environment Facility, operated in accordance with the Instrument for the Establishment of the Restructured Global Environment Facility, shall, on an interim basis, be the principal entity entrusted with the operations of the financial mechanism referred to in Article 13, for the period between the date of entry into force of this Convention and the first meeting of the Conference of the Parties, or until such time as the Conference of the Parties decides which institutional structure will be designated in accordance with Article 13. The institutional structure of the Global Environment Facility should fulfill this function through operational measures related specifically to persistent organic pollutants taking into account that new arrangements for this area may be needed.

Article 15

Reporting

1. Each Party shall report to the Conference of the Parties on the measures it has taken to implement the provisions of this Convention and on the effectiveness of such measures in meeting the objectives of the Convention.
2. Each Party shall provide to the Secretariat:
 - (a) Statistical data on its total quantities of production, import and export of each of the chemicals listed in Annex A and Annex B or a reasonable estimate of such data; and
 - (b) To the extent practicable, a list of the States from which it has imported each such substance and the States to which it has exported each such substance.
3. Such reporting shall be at periodic intervals and in a format to be decided by the Conference of the Parties at its first meeting.

Article 16

Effectiveness evaluation.

1. Commencing four years after the date of entry into force of this Convention, and periodically thereafter at intervals to be decided by the Conference of the Parties, the Conference shall evaluate the effectiveness of this Convention.

2. In order to facilitate such evaluation, the Conference of the Parties shall, at its first meeting, initiate the establishment of arrangements to provide itself with comparable monitoring data on the presence of the chemicals listed in Annexes A, B and C as well as their regional and global environmental transport. These arrangements:

(a) Should be implemented by the Parties on a regional basis when appropriate, in accordance with their technical and financial capabilities, using existing monitoring programmes and mechanisms to the extent possible and promoting harmonization of approaches;

(b) May be supplemented where necessary, taking into account the differences between regions and their capabilities to implement monitoring activities; and

(c) Shall include reports to the Conference of the Parties on the results of the monitoring activities on a regional and global basis at intervals to be specified by the Conference of the Parties.

3. The evaluation described in paragraph 1 shall be conducted on the basis of available scientific, environmental, technical and economic information, including:

(a) Reports and other monitoring information provided pursuant to paragraph 2;

(b) National reports submitted pursuant to Article 15; and

(c) Non-compliance information provided pursuant to the procedures established under Article 17.

Article 17

Non-compliance

The Conference of the Parties shall, as soon as practicable, develop and approve procedures and institutional mechanisms for determining non-compliance with the provisions of this Convention and for the treatment of Parties found to be in non-compliance.

Article 18

Settlement of disputes

1. Parties shall settle any dispute between them concerning the interpretation or application of this Convention through negotiation or other peaceful means of their own choice.

2. When ratifying, accepting, approving or acceding to the Convention, or at any time thereafter, a Party that is not a regional economic integration

organization may declare in a written instrument submitted to the depositary that, with respect to any dispute concerning the interpretation or application of the Convention, it recognizes one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:

(a) Arbitration in accordance with procedures to be adopted by the Conference of the Parties in an annex as soon as practicable;

(b) Submission of the dispute to the International Court of Justice.

3. A Party that is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedure referred to in paragraph 2 (a).

4. A declaration made pursuant to paragraph 2 or paragraph 3 shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the depositary.

5. The expiry of a declaration, a notice of revocation or a new declaration shall not in any way affect proceedings pending before an arbitral tribunal or the International Court of Justice unless the parties to the dispute otherwise agree.

6. If the parties to a dispute have not accepted the same or any procedure pursuant to paragraph 2, and if they have not been able to settle their dispute within twelve months following notification by one party to another that a dispute exists between them, the dispute shall be submitted to a conciliation commission at the request of any party to the dispute. The conciliation commission shall render a report with recommendations. Additional procedures relating to the conciliation commission shall be included in an annex to be adopted by the Conference of the Parties no later than at its second meeting.

Article 19

Conference of the Parties

1. A Conference of the Parties is hereby established.

2. The first meeting of the Conference of the Parties shall be convened by the Executive Director of the United Nations Environment Programme no later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be decided by the Conference.

3. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party provided that it is supported by at least one third of the Parties.

4. The Conference of the Parties shall by consensus agree upon and adopt at its first meeting rules of procedure and financial rules for itself and any subsidiary bodies, as well as financial provisions governing the functioning of the Secretariat.

5. The Conference of the Parties shall keep under continuous review and

evaluation the implementation of this Convention. It shall perform the functions assigned to it by the Convention and, to this end, shall:

(a) Establish, further to the requirements of paragraph 6, such subsidiary bodies as it considers necessary for the implementation of the Convention;

(b) Cooperate, where appropriate, with competent international organizations and intergovernmental and non-governmental bodies; and

(c) Regularly review all information made available to the Parties pursuant to Article 15, including consideration of the effectiveness of paragraph 2 (b) (iii) of Article 3;

(d) Consider and undertake any additional action that may be required for the achievement of the objectives of the Convention.

6. The Conference of the Parties shall, at its first meeting, establish a subsidiary body to be called the Persistent Organic Pollutants Review Committee for the purposes of performing the functions assigned to that Committee by this Convention. In this regard:

(a) The members of the Persistent Organic Pollutants Review Committee shall be appointed by the Conference of the Parties. Membership of the Committee shall consist of government-designated experts in chemical assessment or management. The members of the Committee shall be appointed on the basis of equitable geographical distribution;

(b) The Conference of the Parties shall decide on the terms of reference, organization and operation of the Committee; and

(c) The Committee shall make every effort to adopt its recommendations by consensus. If all efforts at consensus have been exhausted, and no consensus reached, such recommendation shall as a last resort be adopted by a two-thirds majority vote of the members present and voting.

7. The Conference of the Parties shall, at its third meeting, evaluate the continued need for the procedure contained in paragraph 2 (b) of Article 3, including consideration of its effectiveness.

8. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Convention, may be represented at meetings of the Conference of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in matters covered by the Convention, and which has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties as an observer may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article 20

Secretariat

1. A Secretariat is hereby established.

2. The functions of the Secretariat shall be:

(a) To make arrangements for meetings of the Conference of the Parties and its subsidiary bodies and to provide them with services as required;

(b) To facilitate assistance to the Parties, particularly developing country Parties and Parties with economies in transition, on request, in the implementation of this Convention;

(c) To ensure the necessary coordination with the secretariats of other relevant international bodies;

(d) To prepare and make available to the Parties periodic reports based on information received pursuant to Article 15 and other available information;

(e) To enter, under the overall guidance of the Conference of the Parties, into such administrative and contractual arrangements as may be required for the effective discharge of its functions; and

(f) To perform the other secretariat functions specified in this Convention and such other functions as may be determined by the Conference of the Parties.

3. The secretariat functions for this Convention shall be performed by the Executive Director of the United Nations Environment Programme, unless the Conference of the Parties decides, by a three-fourths majority of the Parties present and voting, to entrust the secretariat functions to one or more other international organizations.

Article 21

Amendments to the Convention

1. Amendments to this Convention may be proposed by any Party.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. The text of any proposed amendment shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the signatories to this Convention and, for information, to the depositary.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting.

4. The amendment shall be communicated by the depositary to all Parties for ratification, acceptance or approval.

5. Ratification, acceptance or approval of an amendment shall be notified to the depositary in writing. An amendment adopted in accordance with paragraph 3 shall enter into force for the Parties having accepted it on the ninetieth day after the date of deposit of instruments of ratification, acceptance or approval by at least three-fourths of the Parties. Thereafter, the amendment shall enter into force for any other Party on the ninetieth day after the date

on which that Party deposits its instrument of ratification, acceptance or approval of the amendment.

Article 22

Adoption and amendment of annexes

1. Annexes to this Convention shall form an integral part thereof and, unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to any annexes thereto.
2. Any additional annexes shall be restricted to procedural, scientific, technical or administrative matters.
3. The following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention:
 - (a) Additional annexes shall be proposed and adopted according to the procedure laid down in paragraphs 1, 2 and 3 of Article 21;
 - (b) Any Party that is unable to accept an additional annex shall so notify the depositary, in writing, within one year from the date of communication by the depositary of the adoption of the additional annex. The depositary shall without delay notify all Parties of any such notification received. A Party may at any time withdraw a previous notification of non-acceptance in respect of any additional annex, and the annex shall thereupon enter into force for that Party subject to subparagraph (c); and
 - (c) On the expiry of one year from the date of the communication by the depositary of the adoption of an additional annex, the annex shall enter into force for all Parties that have not submitted a notification in accordance with the provisions of subparagraph (b).
4. The proposal, adoption and entry into force of amendments to Annex A, B or C shall be subject to the same procedures as for the proposal, adoption and entry into force of additional annexes to this Convention, except that an amendment to Annex A, B or C shall not enter into force with respect to any Party that has made a declaration with respect to amendment to those Annexes in accordance with paragraph 4 of Article 25, in which case any such amendment shall enter into force for such a Party on the ninetieth day after the date of deposit with the depositary of its instrument of ratification, acceptance, approval or accession with respect to such amendment.
5. The following procedure shall apply to the proposal, adoption and entry into force of an amendment to Annex D, E or F:
 - (a) Amendments shall be proposed according to the procedure in paragraphs 1 and 2 of Article 21;
 - (b) The Parties shall take decisions on an amendment to Annex D, E or F by consensus; and
 - (c) A decision to amend Annex D, E or F shall forthwith be communicated to the Parties by the depositary. The amendment shall enter into force for all Parties on a date to be specified in the decision.

6. If an additional annex or an amendment to an annex is related to an amendment to this Convention, the additional annex or amendment shall not enter into force until such time as the amendment to the Convention enters into force.

Article 23

Right to vote

1. Each Party to this Convention shall have one vote, except as provided for in paragraph 2.
2. A regional economic integration organization, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member States that are Parties to this Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right to vote, and vice versa.

Article 24

Signature

This Convention shall be open for signature at Stockholm by all States and regional economic integration organizations on 23 May 2001, and at the United Nations Headquarters in New York from 24 May 2001 to 22 May 2002.

Article 25

Ratification, acceptance, approval or accession

1. This Convention shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations. It shall be open for accession by States and by regional economic integration organizations from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.
2. Any regional economic integration organization that becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to this Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently.
3. In its instrument of ratification, acceptance, approval or accession, a regional economic integration organization shall declare the extent of its competence in respect of the matters governed by this Convention. Any such organization shall also inform the depositary, who shall in turn inform the Parties, of any relevant modification in the extent of its competence.
4. In its instrument of ratification, acceptance, approval or accession, any Party may declare that, with respect to it, any amendment to Annex A, B or C shall enter into force only upon the deposit of its instrument of ratification,

acceptance, approval or accession with respect thereto.

Article 26

Entry into force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession.
2. For each State or regional economic integration organization that ratifies, accepts or approves this Convention or accedes thereto after the deposit of the fiftieth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.
3. For the purpose of paragraphs 1 and 2, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of that organization.

Article 27

Reservations

No reservations may be made to this Convention.

Article 28

Withdrawal

1. At any time after three years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the depositary.
2. Any such withdrawal shall take effect upon the expiry of one year from the date of receipt by the depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.

Article 29

Depositary

The Secretary-General of the United Nations shall be the depositary of this Convention.

Article 30

Authentic texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect,

have signed this Convention.

Done at Stockholm on this twenty-second day of May, two thousand and one.

Annex A

ELIMINATION

Part I

Chemical	Activity	Specific exemption
Aldrin* CAS No: 309-00-2	Production	None
	Use	Local ectoparasiticide Insecticide
Chlordane* CAS No: 57-74-9	Production	As allowed for the Parties listed in the Register
	Use	Local ectoparasiticide Insecticide Termiticide Termiticide in buildings and dams Termiticide in roads Additive in plywood adhesives
Dieldrin* CAS No: 60-57-1	Production	None
	Use	In agricultural operations
Endrin* CAS No: 72-20-8	Production	None
	Use	None
Heptachlor* CAS No: 76-44-8	Production	None
	Use	Termiticide Termiticide in structures of houses Termiticide (subterranean) Wood treatment In use in underground cable boxes
Hexachlorobenzene CAS No: 118-74-1	Production	As allowed for the Parties listed in the Register
	Use	Intermediate

Solvent in pesticide
Closed system site limited
intermediate

Mirex*	Production	As allowed for the Parties listed in the Register
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CAS No: 2385-85-5

Use	Termiticide
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Toxaphene*	Production	None
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CAS No: 8001-35-2

Use	None
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Polychlorinated Biphenyls (PCB)*	Production	None
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Use	Articles in use in accordance with the provisions of Part II of this Annex
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Notes:

(i) Except as otherwise specified in this Convention, quantities of a chemical occurring as unintentional trace contaminants in products and articles shall not be considered to be listed in this Annex;

(ii) This note shall not be considered as a production and use specific exemption for purposes of paragraph 2 of Article 3. Quantities of a chemical occurring as constituents of articles manufactured or already in use before or on the date of entry into force of the relevant obligation with respect to that chemical, shall not be considered as listed in this Annex, provided that a Party has notified the Secretariat that a particular type of article remains in use within that Party. The Secretariat shall make such notifications publicly available;

(iii) This note, which does not apply to a chemical that has an asterisk following its name in the Chemical column in Part I of this Annex, shall not be considered as a production and use specific exemption for purposes of paragraph 2 of Article 3. Given that no significant quantities of the chemical are expected to reach humans and the environment during the production and use of a closed-system site-limited intermediate, a Party, upon notification to the Secretariat, may allow the production and use of quantities of a chemical listed in this Annex as a closed-system site-limited intermediate that is chemically transformed in the manufacture of other chemicals that, taking into consideration the criteria in paragraph 1 of Annex D, do not exhibit the characteristics of persistent organic pollutants. This notification shall include information on total production and use of such chemical or a reasonable estimate of such information and information regarding the nature of the closed-system site-limited process including the amount of any non-transformed and unintentional trace contamination of the persistent organic pollutant-starting material in the final product. This procedure applies except as otherwise specified in this Annex. The Secretariat shall make such notifications available to the Conference of the Parties and to the public.

Such production or use shall not be considered a production or use specific exemption. Such production and use shall cease after a ten-year period, unless the Party concerned submits a new notification to the Secretariat, in which case the period will be extended for an additional ten years unless the Conference of the Parties, after a review of the production and use decides otherwise. The notification procedure can be repeated;

(iv) All the specific exemptions in this Annex may be exercised by Parties that have registered exemptions in respect of them in accordance with Article 4 with the exception of the use of polychlorinated biphenyls in articles in use in accordance with the provisions of Part II of this Annex, which may be exercised by all Parties.

Part II

Polychlorinated biphenyls

Each Party shall:

(a) With regard to the elimination of the use of polychlorinated biphenyls in equipment (e.g. transformers, capacitors or other receptacles containing liquid stocks) by 2025, subject to review by the Conference of the Parties, take action in accordance with the following priorities:

(i) Make determined efforts to identify, label and remove from use equipment containing greater than 10 per cent polychlorinated biphenyls and volumes greater than 5 litres;

(ii) Make determined efforts to identify, label and remove from use equipment containing greater than 0.05 per cent polychlorinated biphenyls and volumes greater than 5 litres;

(iii) Endeavour to identify and remove from use equipment containing greater than 0.005 percent poly- chlorinated biphenyls and volumes greater than 0.05 litres;

(b) Consistent with the priorities in subparagraph (a), promote the following measures to reduce exposures and risk to control the use of polychlorinated biphenyls:

(i) Use only in intact and non-leaking equipment and only in areas where the risk from environmental release can be minimised and quickly remedied;

(ii) Not use in equipment in areas associated with the production or processing of food or feed;

(iii) When used in populated areas, including schools and hospitals, all reasonable measures to protect from electrical failure which could result in a fire, and regular inspection of equipment for leaks;

(c) Notwithstanding paragraph 2 of Article 3, ensure that equipment containing polychlorinated biphenyls, as described in subparagraph (a), shall not be exported or imported except for the purpose of environmentally sound waste management;

(d) Except for maintenance and servicing operations, not allow recovery for the purpose of reuse in other equipment of liquids with polychlorinated biphenyls content above 0.005 per cent;

(e) Make determined efforts designed to lead to environmentally sound waste management of liquids containing polychlorinated biphenyls and equipment contaminated with polychlorinated biphenyls having a polychlorinated biphenyls content above 0.005 per cent, in accordance with paragraph 1 of Article 6, as soon as possible but no later than 2028, subject to review by the Conference of the Parties;

(f) In lieu of note (ii) in Part I of this Annex, endeavour to identify other articles containing more than 0.005 per cent polychlorinated biphenyls (e.g. cable-sheaths, cured caulk and painted objects) and manage them in accordance with paragraph 1 of Article 6;

(g) Provide a report every five years on progress in eliminating polychlorinated biphenyls and submit it to the Conference of the Parties pursuant to Article 15;

(h) The reports described in subparagraph (g) shall, as appropriate, be considered by the Conference of the Parties in its reviews relating to polychlorinated biphenyls. The Conference of the Parties shall review progress towards elimination of polychlorinated biphenyls at five year intervals or other period, as appropriate, taking into account such reports.

Annex B

RESTRICTION

Part I

Chemical	Activity	Acceptable purpose or specific exemption
DDT (1,1,1-trichloro-2,2-bis(4-chlorophenyl)ethane) CAS No: 50-29-3	Production	Acceptable purpose: Disease vector control use in accordance with Part II of this Annex
		Specific exemption: Intermediate in production of dicofol Intermediate
	Use	Acceptable purpose: Disease vector control in accordance with Part II of this Annex
		Specific exemption: Production of dicofol Intermediate

Notes:

(i) Except as otherwise specified in this Convention, quantities of a chemical occurring as unintentional trace contaminants in products and articles shall not be considered to be listed in this Annex;

(ii) This note shall not be considered as a production and use acceptable purpose or specific exemption for purposes of paragraph 2 of Article 3. Quantities of a chemical occurring as constituents of articles manufactured or already in use before or on the date of entry into force of the relevant obligation with respect to that chemical, shall not be considered as listed in this Annex, provided that a Party has notified the Secretariat that a particular type of article remains in use within that Party. The Secretariat shall make such notifications publicly available;

(iii) This note shall not be considered as a production and use specific exemption for purposes of paragraph 2 of Article 3. Given that no significant quantities of the chemical are expected to reach humans and the environment during the production and use of a closed-system site-limited intermediate, a Party, upon notification to the Secretariat, may allow the production and use of quantities of a chemical listed in this Annex as a closed-system site-limited intermediate that is chemically transformed in the manufacture of other chemicals that, taking into consideration the criteria in paragraph 1 of Annex D, do not exhibit the characteristics of persistent organic pollutants. This notification shall include information on total production and use of such chemical or a reasonable estimate of such information and information regarding the nature of the closed-system site-limited process including the amount of any non-transformed and unintentional trace contamination of the persistent organic pollutant-starting material in the final product. This procedure applies except as otherwise specified in this Annex. The Secretariat shall make such notifications available to the Conference of the Parties and to the public. Such production or use shall not be considered a production or use specific exemption. Such production and use shall cease after a ten-year period, unless the Party concerned submits a new notification to the Secretariat, in which case the period will be extended for an additional ten years unless the Conference of the Parties, after a review of the production and use decides otherwise. The notification procedure can be repeated;

(iv) All the specific exemptions in this Annex may be exercised by Parties that have registered in respect of them in accordance with Article 4.

Part II

DDT (1,1,1-trichloro-2,2-bis(4-chlorophenyl)ethane)

1. The production and use of DDT shall be eliminated except for Parties that have notified the Secretariat of their intention to produce and/or use it. A DDT Register is hereby established and shall be available to the public. The Secretariat shall maintain the DDT Register.
2. Each Party that produces and/or uses DDT shall restrict such production and/or use for disease vector control in accordance with the World Health Organization recommendations and guidelines on the use of DDT and when locally safe, effective and affordable alternatives are not available to the Party in question.

3. In the event that a Party not listed in the DDT Register determines that it requires DDT for disease vector control, it shall notify the Secretariat as soon as possible in order to have its name added forthwith to the DDT Register. It shall at the same time notify the World Health Organization.

4. Every three years, each Party that uses DDT shall provide to the Secretariat and the World Health Organization information on the amount used, the conditions of such use and its relevance to that Party's disease management strategy, in a format to be decided by the Conference of the Parties in consultation with the World Health Organization.

5. With the goal of reducing and ultimately eliminating the use of DDT, the Conference of the Parties shall encourage:

(a) Each Party using DDT to develop and implement an action plan as part of the implementation plan specified in Article 7. That action plan shall include:

(i) Development of regulatory and other mechanisms to ensure that DDT use is restricted to disease vector control;

(ii) Implementation of suitable alternative products, methods and strategies, including resistance management strategies to ensure the continuing effectiveness of these alternatives;

(iii) Measures to strengthen health care and to reduce the incidence of the disease.

(b) The Parties, within their capabilities, to promote research and development of safe alternative chemical and non-chemical products, methods and strategies for Parties using DDT, relevant to the conditions of those countries and with the goal of decreasing the human and economic burden of disease. Factors to be promoted when considering alternatives or combinations of alternatives shall include the human health risks and environmental implications of such alternatives. Viable alternatives to DDT shall pose less risk to human health and the environment, be suitable for disease control based on conditions in the Parties in question and be supported with monitoring data.

6. Commencing at its first meeting, and at least every three years thereafter, the Conference of the Parties shall, in consultation with the World Health Organization, evaluate the continued need for DDT for disease vector control on the basis of available scientific, technical, environmental and economic information, including:

(a) The production and use of DDT and the conditions set out in paragraph 2;

(b) The availability, suitability and implementation of the alternatives to DDT; and

(c) Progress in strengthening the capacity of countries to transfer safely to reliance on such alternatives.

7. A Party may, at any time, withdraw its name from the DDT Registry upon written notification to the Secretariat. The withdrawal shall take effect on the date specified in the notification.

Annex C

UNINTENTIONAL PRODUCTION

Part I: Persistent organic pollutants subject to the requirements of Article 5

This Annex applies to the following persistent organic pollutants when formed and released unintentionally from anthropogenic sources:

Chemical

Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/PCDF)

Hexachlorobenzene (HCB) (CAS No: 118-74-1)

Polychlorinated biphenyls (PCB)

Part II: Source categories

Polychlorinated dibenzo-p-dioxins and dibenzofurans, hexachlorobenzene and polychlorinated biphenyls are unintentionally formed and released from thermal processes involving organic matter and chlorine as a result of incomplete combustion or chemical reactions. The following industrial source categories have the potential for comparatively high formation and release of these chemicals to the environment:

- (a) Waste incinerators, including co-incinerators of municipal, hazardous or medical waste or of sewage sludge;
- (b) Cement kilns firing hazardous waste;
- (c) Production of pulp using elemental chlorine or chemicals generating elemental chlorine for bleaching;
- (d) The following thermal processes in the metallurgical industry:
 - (i) Secondary copper production;
 - (ii) Sinter plants in the iron and steel industry;
 - (iii) Secondary aluminium production;
 - (iv) Secondary zinc production.

Part III: Source categories

Polychlorinated dibenzo-p-dioxins and dibenzofurans, hexachlorobenzene and polychlorinated biphenyls may also be unintentionally formed and released from the following source categories, including:

- (a) Open burning of waste, including burning of landfill sites;

(b) Thermal processes in the metallurgical industry not mentioned in Part II;

(c) Residential combustion sources;

(d) Fossil fuel-fired utility and industrial boilers;

(e) Firing installations for wood and other biomass fuels;

(f) Specific chemical production processes releasing unintentionally formed persistent organic pollutants, especially production of chlorophenols and chloranil;

(g) Crematoria;

(h) Motor vehicles, particularly those burning leaded gasoline;

(i) Destruction of animal carcasses;

(j) Textile and leather dyeing (with chloranil) and finishing (with alkaline extraction);

(k) Shredder plants for the treatment of end of life vehicles;

(l) Smouldering of copper cables;

(m) Waste oil refineries.

Part IV: Definitions

1. For the purposes of this Annex:

(a) "Polychlorinated biphenyls" means aromatic compounds formed in such a manner that the hydrogen atoms on the biphenyl molecule (two benzene rings bonded together by a single carbon-carbon bond) may be replaced by up to ten chlorine atoms; and

(b) "Polychlorinated dibenzo-p-dioxins" and "polychlorinated dibenzofurans" are tricyclic, aromatic compounds formed by two benzene rings connected by two oxygen atoms in polychlorinated dibenzo-p-dioxins and by one oxygen atom and one carbon-carbon bond in polychlorinated dibenzofurans and the hydrogen atoms of which may be replaced by up to eight chlorine atoms.

2. In this Annex, the toxicity of polychlorinated dibenzo-p-dioxins and dibenzofurans is expressed using the concept of toxic equivalency which measures the relative dioxin-like toxic activity of different congeners of polychlorinated dibenzo-p-dioxins and dibenzofurans and coplanar polychlorinated biphenyls in comparison to 2,3,7,8-tetrachlorodibenzo-p-dioxin. The toxic equivalent factor values to be used for the purposes of this Convention shall be consistent with accepted international standards, commencing with the World Health Organization 1998 mammalian toxic equivalent factor values for polychlorinated dibenzo-p-dioxins and dibenzofurans and coplanar polychlorinated biphenyls. Concentrations are expressed in toxic equivalents.

Part V: General guidance on best available techniques and best environmental practices

This Part provides general guidance to Parties on preventing or reducing releases of the chemicals listed in Part I.

A. General prevention measures relating to both best available techniques and best environmental practices

Priority should be given to the consideration of approaches to prevent the formation and release of the chemicals listed in Part I. Useful measures could include:

- (a) The use of low-waste technology;
- (b) The use of less hazardous substances;
- (c) The promotion of the recovery and recycling of waste and of substances generated and used in a process;
- (d) Replacement of feed materials which are persistent organic pollutants or where there is a direct link between the materials and releases of persistent organic pollutants from the source;
- (e) Good housekeeping and preventive maintenance programmes;
- (f) Improvements in waste management with the aim of the cessation of open and other uncontrolled burning of wastes, including the burning of landfill sites. When considering proposals to construct new waste disposal facilities, consideration should be given to alternatives such as activities to minimize the generation of municipal and medical waste, including resource recovery, reuse, recycling, waste separation and promoting products that generate less waste. Under this approach, public health concerns should be carefully considered;
- (g) Minimization of these chemicals as contaminants in products;
- (h) Avoiding elemental chlorine or chemicals generating elemental chlorine for bleaching.

B. Best available techniques

The concept of best available techniques is not aimed at the prescription of any specific technique or technology, but at taking into account the technical characteristics of the installation concerned, its geographical location and the local environmental conditions. Appropriate control techniques to reduce releases of the chemicals listed in Part I are in general the same. In determining best available techniques, special consideration should be given, generally or in specific cases, to the following factors, bearing in mind the likely costs and benefits of a measure and consideration of precaution and prevention:

- (a) General considerations:

(i) The nature, effects and mass of the releases concerned: techniques may vary depending on source size;

(ii) The commissioning dates for new or existing installations;

(iii) The time needed to introduce the best available technique;

(iv) The consumption and nature of raw materials used in the process and its energy efficiency;

(v) The need to prevent or reduce to a minimum the overall impact of the releases to the environment and the risks to it;

(vi) The need to prevent accidents and to minimize their consequences for the environment;

(vii) The need to ensure occupational health and safety at workplaces;

(viii) Comparable processes, facilities or methods of operation which have been tried with success on an industrial scale;

(ix) Technological advances and changes in scientific knowledge and understanding.

(b) General release reduction measures: When considering proposals to construct new facilities or significantly modify existing facilities using processes that release chemicals listed in this Annex, priority consideration should be given to alternative processes, techniques or practices that have similar usefulness but which avoid the formation and release of such chemicals. In cases where such facilities will be constructed or significantly modified, in addition to the prevention measures outlined in section A of Part V the following reduction measures could also be considered in determining best available techniques:

(i) Use of improved methods for flue-gas cleaning such as thermal or catalytic oxidation, dust precipitation, or adsorption;

(ii) Treatment of residuals, wastewater, wastes and sewage sludge by, for example, thermal treatment or rendering them inert or chemical processes that detoxify them;

(iii) Process changes that lead to the reduction or elimination of releases, such as moving to closed systems;

(iv) Modification of process designs to improve combustion and prevent formation of the chemicals listed in this Annex, through the control of parameters such as incineration temperature or residence time.

C. Best environmental practices

The Conference of the Parties may develop guidance with regard to best environmental practices.

INFORMATION REQUIREMENTS AND SCREENING CRITERIA

1. A Party submitting a proposal to list a chemical in Annexes A, B and/or C shall identify the chemical in the manner described in subparagraph (a) and provide the information on the chemical, and its transformation products where relevant, relating to the screening criteria set out in subparagraphs (b) to (e):

(a) Chemical identity:

(i) Names, including trade name or names, commercial name or names and synonyms, Chemical Abstracts Service (CAS) Registry number, International Union of Pure and Applied Chemistry (IUPAC) name; and

(ii) Structure, including specification of isomers, where applicable, and the structure of the chemical class;

(b) Persistence:

(i) Evidence that the half-life of the chemical in water is greater than two months, or that its half-life in soil is greater than six months, or that its half-life in sediment is greater than six months; or

(ii) Evidence that the chemical is otherwise sufficiently persistent to justify its consideration within the scope of this Convention;

(c) Bio-accumulation:

(i) Evidence that the bio-concentration factor or bio-accumulation factor in aquatic species for the chemical is greater than 5,000 or, in the absence of such data, that the log K_{ow} is greater than 5;

(ii) Evidence that a chemical presents other reasons for concern, such as high bio-accumulation in other species, high toxicity or ecotoxicity; or

(iii) Monitoring data in biota indicating that the bio-accumulation potential of the chemical is sufficient to justify its consideration within the scope of this Convention;

(d) Potential for long-range environmental transport:

(i) Measured levels of the chemical in locations distant from the sources of its release that are of potential concern;

(ii) Monitoring data showing that long-range environmental transport of the chemical, with the potential for transfer to a receiving environment, may have occurred via air, water or migratory species; or

(iii) Environmental fate properties and/or model results that demonstrate that the chemical has a potential for long-range environmental transport through air, water or migratory species, with the potential for transfer to a receiving environment in locations distant from the sources of its release. For a chemical that migrates significantly through the air, its

half-life in air should be greater than two days; and

(e) Adverse effects:

(i) Evidence of adverse effects to human health or to the environment that justifies consideration of the chemical within the scope of this Convention; or

(ii) Toxicity or ecotoxicity data that indicate the potential for damage to human health or to the environment.

2. The proposing Party shall provide a statement of the reasons for concern including, where possible, a comparison of toxicity or ecotoxicity data with detected or predicted levels of a chemical resulting or anticipated from its long-range environmental transport, and a short statement indicating the need for global control.

3. The proposing Party shall, to the extent possible and taking into account its capabilities, provide additional information to support the review of the proposal referred to in paragraph 6 of Article 8. In developing such a proposal, a Party may draw on technical expertise from any source.

Annex E

INFORMATION REQUIREMENTS FOR THE RISK PROFILE

The purpose of the review is to evaluate whether the chemical is likely, as a result of its long-range environmental transport, to lead to significant adverse human health and/or environmental effects, such that global action is warranted. For this purpose, a risk profile shall be developed that further elaborates on, and evaluates, the information referred to in Annex D and includes, as far as possible, the following types of information:

(a) Sources, including as appropriate:

(i) Production data, including quantity and location;

(ii) Uses; and

(iii) Releases, such as discharges, losses and emissions;

(b) Hazard assessment for the endpoint or endpoints of concern, including a consideration of toxicological interactions involving multiple chemicals;

(c) Environmental fate, including data and information on the chemical and physical properties of a chemical as well as its persistence and how they are linked to its environmental transport, transfer within and between environmental compartments, degradation and transformation to other chemicals. A determination of the bio-concentration factor or bio-accumulation factor, based on measured values, shall be available, except when monitoring data are judged to meet this need;

(d) Monitoring data;

(e) Exposure in local areas and, in particular, as a result of long-range environmental transport, and including information regarding bio-availability;

(f) National and international risk evaluations, assessments or profiles and labelling information and hazard classifications, as available; and

(g) Status of the chemical under international conventions.

Annex F

INFORMATION ON SOCIO-ECONOMIC CONSIDERATIONS

An evaluation should be undertaken regarding possible control measures for chemicals under consideration for inclusion in this Convention, encompassing the full range of options, including management and elimination. For this purpose, relevant information should be provided relating to socio-economic considerations associated with possible control measures to enable a decision to be taken by the Conference of the Parties. Such information should reflect due regard for the differing capabilities and conditions among the Parties and should include consideration of the following indicative list of items:

(a) Efficacy and efficiency of possible control measures in meeting risk reduction goals:

(i) Technical feasibility; and

(ii) Costs, including environmental and health costs;

(b) Alternatives (products and processes):

(i) Technical feasibility;

(ii) Costs, including environmental and health costs;

(iii) Efficacy;

(iv) Risk;

(v) Availability; and

(vi) Accessibility;

(c) Positive and/or negative impacts on society of implementing possible control measures:

(i) Health, including public, environmental and occupational health;

(ii) Agriculture, including aquaculture and forestry;

(iii) Biota (biodiversity);

(iv) Economic aspects;

(v) Movement towards sustainable development; and

Schedule 1 clause 5: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

6 Repealed.

Schedule 1 clause 6: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

7 Repealed.

Schedule 1 clause 7: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

8 Repealed.

Schedule 1 clause 8: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Remuneration and expenses of Authority members
(Repealed)

Heading: repealed, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

9 Repealed.

Schedule 1 clause 9: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Meetings
(Repealed)

Heading: repealed, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

10 Repealed.

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

11 Repealed.

Schedule 1 clause 11: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

12 Repealed.

Schedule 1 clause 12: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

13 Repealed.

Schedule 1 clause 13: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

14 Repealed.

Schedule 1 clause 14: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

15 Repealed.

Schedule 1 clause 15: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

16 Repealed.

Schedule 1 clause 16: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Disclosure of interest
(Repealed)

Heading: repealed, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

17 Repealed.

Schedule 1 clause 17: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

18 Repealed.

Schedule 1 clause 18: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

19 Repealed.

Schedule 1 clause 19: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

20 Repealed.

Schedule 1 clause 20: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

21 Repealed.

Schedule 1 clause 21: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

22 Repealed.

Schedule 1 clause 22: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

23 Repealed.

Schedule 1 clause 23: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Execution of documents
(Repealed)

Heading: repealed, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

24 Repealed.

Schedule 1 clause 24: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

25 Repealed.

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

26 Repealed.

Schedule 1 clause 26: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Powers to borrow, etc
(Repealed)

Heading: repealed, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

27 Repealed.

Schedule 1 clause 27: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Chief executive

28 The Authority shall appoint a chief executive, who shall not be a member of the Authority, to be responsible for the efficient and effective administration of the affairs of the Authority.

Schedule 1 clause 28: words omitted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

29 Section 117 of the Crown Entities Act 2004 applies to the appointment of a chief executive under clause 28.

Schedule 1 clause 29: substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Appointment of staff
(Repealed)

Heading: repealed, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

30 Repealed.

Schedule 1 clause 30: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

31 Repealed.

Schedule 1 clause 31: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

32 Repealed.

Schedule 1 clause 32: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Liability of members and employees
(Repealed)

Heading: repealed, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

33 Repealed.

Schedule 1 clause 33: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Personnel policy
(Repealed)

Heading: repealed, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

34 Repealed.

Schedule 1 clause 34: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

35 Repealed.

Schedule 1 clause 35: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

36 Repealed.

Schedule 1 clause 36: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Superannuation or retiring allowances

37 Repealed.

Schedule 1 clause 37: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

38 Notwithstanding anything in this Act, a person who, immediately before becoming an employee of the Authority, is a contributor to the Government

Superannuation Fund under Part 2 or Part 2A of the Government Superannuation Fund Act 1956 shall, for the purposes of that Act, be deemed to be employed in the Government service so long as that person continues to be an employee of the Authority; and that Act shall apply to that person in all respects as if that person's service as an employee of the Authority is Government service.

39 Nothing in clause 38 entitles any person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.

40 For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with clause 38, to an employee of the Authority who is a contributor to the Government Superannuation Fund, the term controlling authority, in relation to that employee, means the Authority.

41 Repealed.

Schedule 1 clause 41: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Consultants, agents, etc

42 Repealed.

Schedule 1 clause 42: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

43(1) The Authority may, from time to time, appoint a committee to hear and determine any application delegated to the committee under section 19.

(2) Any committee appointed under this clause may consist of---

(a) members of the Authority and other persons with particular knowledge and expertise on the subject matter of the application; or

(b) members of the Authority.

(3) The majority of members of a committee appointed in accordance with subclause (2)(a) shall be members of the Authority.

(4) Subclause (3) applies despite clause 14(1)(b) of Schedule 5 of the Crown Entities Act 2004.

(5) For the avoidance of doubt, except as provided in subclause (4), clauses 14 and 15 of Schedule 5 of the Crown Entities Act 2004 apply to a committee appointed for the purposes of this section.

Schedule 1 clause 43(4): substituted, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 1 clause 43(5): added, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

44 Repealed.

Schedule 1 clause 44: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Funding
(Repealed)

Heading: repealed, on 25 January 2005, pursuant to section 200 of the Crown Entities Act 2004 (2004 No 115).

45 Repealed.

Schedule 1 clause 45: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

46 Repealed.

Schedule 1 clause 46: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

47 Repealed.

Schedule 1 clause 47: repealed, on 25 January 2005, by section 200 of the Crown Entities Act 2004 (2004 No 115).

Schedule 2 ss 25(2), 50(1)-(4)
Prohibited new organisms

- 1 Any snake of any species whatever.
- 2 Any venomous reptile, venomous amphibian, venomous fish, or venomous invertebrate. (In this item, venomous means capable of inflicting poisonous wounds harmful to human health.)
- 3 Any American grey squirrel (*Sciurus carolinensis gmelini*).
- 4 Any red squirrel (*Sciurus vulgaris*).
- 5 Any musquash (or muskrat) (*Ondatra zibethica*).
- 6 Any coypu or nutria (*Myocastor coypus*).
- 7 Any beaver (*Castor canadensis*).
- 8 Any gerbil (*Meriones unguiculatus*).
- 9 Any prairie dog (*Cynomys* spp).
- 10 Any pocket gopher (*Geomys* spp and *Thomomys* spp).
- 11 Any red or silver fox (*Vulpes vulpes*).
- 12 Any Arctic fox (*Alopex lagopus*).

- 13 Any mongoose (family Herpestidae) other than *Suricata suricatta*.
- 14 Any member of the family Mustelidae, subfamily Mustelinae, other than ferrets (*Mustela furo*), weasels (*Mustela nivalis*), and stoats (*Mustela erminea*), and subfamily Lutrinae, other than oriental small clawed otter (*Aonyx cineria*).
- 15 Any mole (family Talpidae).
- 16 Any member of the family Esocidae (eg, pikes, muskellunge).
- 17 Any member of the families Phalangeridae and Petauridae, other than the Australian brushtail possum (*Trichosurus vulpecula*).
- 18 Any stickleback (*Gasterosteus* spp).
- 19 Any giant African snail (*Achatina* spp).
- 20 Any predatory snail (*Euglandina rosea*).
- 21 Any cane toad (*Bufo marinus*).
- 22 Negro root (*Cassia occidentalis*).
- 23 Skeleton weed (*Chondrilla juncea*).
- 24 *Cymbopogon schoenanthus*.
- 25 *Cynanchum* (all species), eg, Indian swallowart.
- 26 Hairy thorn apple (*Datura metel*).
- 27 *Ephedra sinica*.
- 28 Leafy spurge (*Euphorbia esula*).
- 29 Star of Bethlehem, Pua-hoku (*Hippobroma longiflora*).
- 30 Poverty weed (*Iva axillaris*).
- 31 Any member of the family Loranthaceae (eg mistletoe), other than *Alepis flavida*, *Lleostylus micranthus*, *Peraxilla colensoi*, *Peraxilla tetrapetala*, *Trilepidea adamsii*, and *Tupeia antarctica*.
- 32 Any member of the genus *Korthalsella* other than *Korthalsella clavata*, *Korthalsella lindsayi*, and *Korthalsella salicornioides*.
- 33 Butterbur (*Petasites hybridus*).
- 34 Witchweed (all species) (*Striga*).
- 35 Strychnine (*Strychnos nux-vomica*).
- 36 *Tourrettia volubilis*.

37 Puncture vine (*Tribulus terrestris*).

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

Schedule 2A s 2(1)
Persistent organic pollutants

Substance	Use or storage facture	Manu- storage	Expiry of permitted use or
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Aldrin
CAS No: 309-00-2

Chlordane
CAS No: 57-74-9

Dieldrin
CAS No: 60-57-1

Endrin
CAS No: 72-20-8

Heptachlor
CAS No: 76-44-8

Hexachlorobenzene
CAS No: 118-74-1

Mirex
CAS No: 2385-85-5

Toxaphene
CAS No: 8001-35-2

Polychlorinated Biphenyls (PCB)	in accordance with an exemption---	at the expiry of---
	(a) granted under regulation 49I or regulation 49J of the Toxic Substances Regulations 1983; and of 2016)	(a) the exemption; or (b) an extension of the expiry of the exemption (being not later than the close of 2016) granted by the Authority
	(b) that is in force immediately before the commencement of the Hazardous Substances and New Organisms (Stockholm Convention) Amendment Act 2003	

DDT (1,1,1-trichloro-
2,2-bis(4-chloro-

phenyl)ethane)
CAS No: 50-29-3

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

Schedule 3 ss 32(2), 42(2), 45(2)

Part 1

Matters to be addressed by containment controls for importing, developing, or field testing genetically modified organisms

Part 1 heading: words substituted, on 2 July 2001, by section 41 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

1 To limit the likelihood of any accidental release of any organism or any viable genetic material, the controls imposed by an approval shall specify---

(a) requirements for treatment and decontamination to prevent escape by way of expelled air, discharge of water or liquid waste, removal of solid waste or goods, or breaches in facility boundary:

(b) equipment and requirements for facility construction to enable the requirements for treatment and decontamination to be readily met:

(c) requirements to be complied with for the access of persons to the facility:

(d) procedures and requirements for transport, identification, and packaging for all biological material to and from the facility and within the facility:

(e) requirements for the disposal of any biological material:

(f) requirements for facility construction:

(g) requirements to secure the facility and openings, including securing against failure in the event of foreseeable hazards.

2 To exclude unauthorised people from the facility, the controls imposed by an approval shall specify---

(a) means of identification of all entrances to the facility:

(b) the numbers of entrances and access to the facility:

(c) security requirements for the entrances and the facility.

3 To exclude other organisms from the facility and to control undesirable and unwanted organisms within the facility, the controls shall specify---

- (a) monitoring requirements to establish the presence of other organisms:
 - (b) phytosanitary requirements:
 - (c) requirements to secure the facility and openings against likely unwanted organisms.
- 4 To prevent unintended release of the organism by experimenters working with the organism, the controls shall specify---
- (a) requirements to prevent the contamination of work surfaces, equipment, clothing, and the facility generally:
 - (b) requirements for laboratory practice to control infection by ingestion or breaks in skin cover:
 - (c) means to control infection by inhalation.

5 To control the effects of any accidental release or escape of an organism---

- (a) controls imposed by an approval shall specify an eradication plan for escaped organisms:
- (b) controls imposed by an approval may specify requirements to limit the likelihood of an escaped organism spreading, surviving and breeding, including, but not limited to,---
 - (i) exclusion zones (spatial or temporal):
 - (ii) location of the facility outside the usual habitat range of the organism.

6 Controls imposed by an approval shall specify inspection and monitoring requirements for containment facilities, including any inspection required before commencement of the development.

Schedule 3 Part 1 clause 6: words omitted, on 28 May 2002, by section 11(1) of the Hazardous Organisms (Genetically Modified Organisms) Amendment Act 2002 (2002 No 13).

6A Controls imposed on an approval to field test a genetically modified organism---

- (a) must specify---
 - (i) inspection and monitoring of containment facilities during the field test; and
 - (ii) inspection and monitoring of the site, after the field test, to ensure that all heritable material is removed or destroyed; and
- (b) may specify inspection of the site before field testing commences.

Schedule 3 Part 1 clause 6A: inserted, on 28 May 2002, by section 11(2) of the

Hazardous Substances and New Organisms (Genetically Modified Organisms) Amendment Act 2002 (2002 No 13).

6B Clause 6A applies, with all necessary modifications, to controls imposed on an approval to develop a new organism that is a genetically modified organism, to the extent that the development does not take place in a containment structure.

Schedule 3 Part 1 clause 6B: inserted, on 28 May 2002, by section 11(2) of the Hazardous Substances and New Organisms (Genetically Modified Organisms) Amendment Act 2002 (2002 No 13).

7 Controls imposed by an approval may specify---

(a) the qualifications required of the person responsible for implementing the controls imposed by an approval:

(b) the provision of a management plan specifying procedures for implementing controls imposed by an approval.

Part 2

Matters to be addressed by containment controls for new organisms excluding genetically modified organisms

1 To limit the likelihood of any accidental release of any organism or any viable genetic material, the controls imposed by an approval shall specify---

(a) requirements for treatment and decontamination to prevent escape by way of expelled air, discharge of water or liquid waste, removal of solid waste, or breaches in facility boundary:

(b) equipment and requirements for facility construction to enable the requirements for treatment and decontamination to be readily met:

(c) requirements to be complied with for the access of persons to the facility:

(d) procedures and requirements for transport, identification, and packaging for all biological material to and from the facility and within the facility:

(e) requirements for the disposal of any biological material:

(f) requirements for facility construction:

(g) requirements to secure the facility and openings, including securing against failure in the event of foreseeable hazards.

2 To exclude unauthorised people from the facility, the controls imposed by an approval shall specify---

(a) means of identification of all entrances to the facility:

(b) the numbers of entrances and access to the facility:

(c) security requirements for the entrances and the facility.

3 To control the effects of any accidental release or escape of an organism---

(a) controls imposed by an approval shall specify an eradication plan for escaped organisms:

(b) controls imposed by an approval may specify requirements to limit the likelihood of an escaped organism spreading, surviving, and breeding, including, but not limited to,---

(i) exclusion zones (spatial or temporal):

(ii) location of the facility outside the usual habitat range of the organism.

4 Controls imposed by an approval shall specify inspection and monitoring requirements for containment facilities.

5 Controls imposed by an approval may specify the qualifications required of the person responsible for implementing those controls.

Part 3

Matters to be addressed by containment controls for contained hazardous substances

1 To limit the likelihood of escape of any contained hazardous substances or contamination of the facility by hazardous substances, the controls imposed by an approval shall specify---

(a) requirements for treatment and decontamination to prevent escape by way of expelled air, discharge of water or liquid waste, removal of solid waste, or breaches in facility boundary:

(b) equipment and requirements for facility construction to enable the requirements for treatment and decontamination to be readily met:

(c) requirements to be complied with for the access of persons to the facility:

(d) procedures and requirements for transport, identification, and packaging of the substance to and from the facility and within the facility:

(e) requirements for the disposal of any hazardous substance:

(f) requirements for facility construction:

(g) requirements to secure the facility and openings, including securing against failure in the event of foreseeable hazards.

2 To exclude organisms from a facility or to control organisms within a facility, the controls shall specify---

2, and substituting the following paragraph:

"(d) does not include any firework as defined in section 2 of the Hazardous Substances and New Organisms Act 1996".

Biosecurity Act 1993 (1993 No 95)
Items repealed.

Building Act 1991 (1991 No 150)
Repealed.

Civil Aviation Act 1990 (1990 No 98)
Amendments incorporated in the principal Act, reprinted as at 28 September 2004.

Conservation Act 1987 (1987 No 65)
Amendment incorporated in the principal Act, reprinted as at 30 June 2005.

Defence Act 1990 (1990 No 28)
By repealing section 101(1)(e), and substituting the following paragraph:

"(e) controlling the packing, marking, handling, carriage, storage, and use in defence areas of hazardous substances as defined in section 2 of the Hazardous Substances and New Organisms Act 1996:".

Environment Act 1986 (1986 No 127)
By repealing the definition of the term hazardous substance (as substituted by section 362 of the Resource Management Act 1991), and substituting the following definition:

"hazardous substance means any substance which may impair human, plant, or animal health or may adversely affect the health or safety of any person or the environment, whether or not contained in or forming part of any other substance or thing".

By inserting in the Schedule, in its appropriate alphabetical order, the following item:

"The Hazardous Substances and New Organisms Act 1996."

Fertilisers Act 1960 (1960 No 33)
Repealed.

Fertilisers Act 1982 (1982 No 134)
Repealed.

Fire Service Act 1975 (1975 No 42) (RS Vol 27, p 11)
By repealing the definition of the term hazardous substance in section 2, and substituting the following definition:

"hazardous substance means---

"(a) any hazardous substance as defined in section 2 of the Hazardous Substances and New Organisms Act 1996; and

"(b) any infectious or radioactive substance that may impair human, animal, or plant health".

By inserting in section 21(1), after the words "Building Research Association of New Zealand", the words "the Environmental Risk Management Authority,".

By inserting in section 21(4), after the expression "subsection (3) of this section,", the expression "but subject to subsection (5) of this section,".

By adding, to section 21, the following subsection:

"(5) The Commission, before making any recommendation under subsection (4) that relates to a hazardous substance, shall consult with the Environmental Risk Management Authority established under the Hazardous Substances and New Organisms Act 1996 about the contents of such recommendation."

By omitting from section 28(3B) (as enacted by section 21(1) of the Fire Service Amendment Act 1990) the words "Inspector of Dangerous Goods under the Dangerous Goods Act 1974 and an officer under the Toxic Substances Act 1979", and substituting the words "enforcement officer under the Hazardous Substances and New Organisms Act 1996".

By omitting from the said section 28(3B) (as so enacted) the words "Inspector of Dangerous Goods or an officer under the Toxic Substances Act 1979", and substituting the words "such an enforcement officer".

By omitting item 15 in Schedule 3 (as substituted by section 34(3) of the Fire Service Amendment Act 1990), and substituting the following item:

"15 Any hazardous substance (as defined in section 2 of the Hazardous Substances and New Organisms Act 1996):".

Fire Service Amendment Act 1990 (1990 No 136)
By repealing section 34(3).

Fisheries Act 1983 (1983 No 14) (RS Vol 27, p 137)
By repealing section 98 (as substituted by section 27(1) of the Fisheries Amendment Act 1986), and substituting the following section:

"98 Using hazardous substances to catch or destroy fish

"(1) Every person commits an offence who, for the purpose of taking or destroying any fish, uses in any water any hazardous substance, narcotic substance, or any electric fishing device.

"(2) Subsection (1) shall not apply to actions taken by a fishery officer or any other person authorised in writing by the Director-General.

"(3) In this section, the term hazardous substance has the same meaning as in section 2 of the Hazardous Substances and New Organisms Act 1996."

Food Act 1981 (1981 No 45)

By inserting in section 42, after subsection (2), the following subsection:

"(2A) The Minister, before recommending the making of any regulation under subsection (1) or before giving notice in the Gazette in accordance with subsection (2), shall consult with the Environmental Risk Management Authority established under the Hazardous Substances and New Organisms Act 1996 about the contents of any such regulations or notice relating to the appearance in food of any substance with toxic properties."

Gas Act 1992 (1992 No 124)

Amendments incorporated in the principal Act, reprinted as at 24 August 2005.

Health Act 1956 (1956 No 65) (RS Vol 31, p 467)

By adding to section 122 the following subsection:

"(6) The Minister, before recommending the making of any regulations under section 117 or section 119 relating to hazardous substances (as defined in section 2 of the Hazardous Substances and New Organisms Act 1996), shall consult with the Environmental Risk Management Authority established under that Act about the contents of any such regulations, and shall take into account any submissions made by the Authority."

Health and Safety in Employment Act 1992 (1992 No 96)

Amendments incorporated in the principal Act, reprinted as at 31 December 2003.

Land Transport Act 1993 (1993 No 88)

Repealed.

Medicines Act 1981 (1981 No 118)

By inserting in section 20, after subsection (6), the following subsection:

"(6A) The Minister, after having given consent or provisional consent to the distribution of any medicine in accordance with this Act, shall give written notification to the Environmental Risk Management Authority established under the Hazardous Substances and New Organisms Act 1996 of the consent or provisional consent and any condition attached to that consent."

By repealing section 110, and substituting the following section:

"110 Relationship with Hazardous Substances and New Organisms Act 1996

"(1) Subject to subsection (2), nothing in this Act shall affect or derogate from the Hazardous Substances and New Organisms Act 1996.

"(2) In the event of any inconsistency between the provisions of the Hazardous Substances and New Organisms Act 1996 and the provisions of this Act, or between the provisions of any regulations made under that Act and the provisions of any regulations made under this Act, in the case of a medicine that is also a hazardous substance within the meaning of that Act, the provisions of this Act and of the regulations made under this Act shall prevail."

Misuse of Drugs Act 1975 (1975 No 116) (RS Vol 26, p 567)

By repealing section 38.

Official Information Act 1982 (1982 No 156)

Amendment incorporated in the principal Act, reprinted as at 28 April 2004.

Ombudsmen Act 1975 (1975 No 9)

Amendments incorporated in the principal Act, reprinted as at 29 March 2004.

Ozone Layer Protection Act 1990 (1990 No 50)

Repealed.

Radiation Protection Act 1965 (1965 No 23) (RS Vol 18, p 673)

By inserting in section 12, after subsection (2), the following subsection:

"(2A) Written notice of any conditions imposed in accordance with subsection (2) on any radioactive material which is also a hazardous substance (as defined in section 2 of the Hazardous Substances and New Organisms Act 1996) shall be given to the Environmental Risk Management Authority established under that Act."

Resource Management Act 1991 (1991 No 69)

Amendments incorporated in the principal Act, reprinted as at 11 March 2005.

Shipping and Seaman Act 1952 (1952 No 49) (RS Vol 4, p 275)

Repealed.

Transport Act 1962 (1962 No 135) (RS Vol 16, p 659)

Repealed.

Transport Amendment Act 1987 (1987 No 96)

Repealed.

Schedule 4 Animal Remedies Act 1967: repealed, on 2 July 2001, by section 86(1) of the Agricultural Compounds and Veterinary Medicines Act 1997 (1997 No 87).

Schedule 4 Biosecurity Act 1993: items repealed, on 29 July 1998, by section 127(1)(a) of the Biosecurity Amendment Act 1997 (1997 No 89).

Schedule 4 Building Act 1991: items repealed, on 2 July 2001, by section 42 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).

Schedule 4 Fertilisers Act 1960: repealed, on 2 July 2001, by section 86(1) of the Agricultural Compounds and Veterinary Medicines Act 1997 (1997 No 87).

Schedule 4 Fertilisers Act 1982: repealed, on 2 July 2001, by section 86(1) of the Agricultural Compounds and Veterinary Medicines Act 1997 (1997 No 87).

Schedule 4 Land Transport Act 1993: repealed, on 1 March 1999, by section 214(1) of the Land Transport Act 1998 (1998 No 110).

Schedule 4 Ozone Layer Protection Act 1990: repealed, on 16 September 1996, by section 31(1) of the Ozone Layer Protection Act 1996 (1996 No 40).

Schedule 4 Shipping and Seaman Act 1952: repealed, on 1 February 1995, by section 202(1) of the Maritime Transport Act 1994 (1994 No 104).

Schedule 4 Transport Act 1962: repealed, on 1 July 2005, pursuant to section 214(3) of the Land Transport Act 1998 (1998 No 110).

Explosives Amendment Act 1983 (1983 No 71)

Explosives Amendment Act 1989 (1989 No 85)

Explosives Amendment Act 2000 (2000 No 63)

Explosives (Fireworks Safety) Amendment Act 1985 (1985 No 2)

Explosives (Skyrockets Restriction) Amendment Act 1994 (1994 No 144)

Fertilisers Act 1982 (1982 No 134)
Section 25(3), (4), and (5).

Health Amendment Act 1987 (1987 No 10) (RS Vol 31, p 580)
So much of Schedule 1 as relates to the Toxic Substances Act 1979.

Health and Safety in Employment Act 1992 (1992 No 96)
Section 62(5).

Health Sector (Transfers) Act 1993 (1993 No 23)
So much of Schedule 4 as relates to the Toxic Substances Act 1979.

Judicature Amendment Act 1991 (1991 No 60)
So much of the Schedule as relates to the Pesticides Act 1979 and the Toxic Substances Act 1989.

Ministry of Agriculture and Fisheries Amendment Act 1990 (1990 No 53)
Section 2(4)(g).

Official Information Amendment Act 1987 (1987 No 8) (RS Vol 21, p 652)
So much of Schedule 3 as relates to the Pesticides Act 1979 and the Toxic Substances Act 1979.

Pesticides Act 1979 (1979 No 26)

Pesticides Amendment Act 1987 (1987 No 16)

Pesticides Amendment Act (No 2) 1987 (1987 No 44)

Plants Act 1970 (1970 No 151) (RS Vol 21, p 735)
Sections 5, 7, and 10(a).

Smoke-free Environments Act 1990 (1990 No 108)
Section 41(1) to (4).

Toxic Substances Act 1979 (1979 No 27)

Toxic Substances Amendment Act 1983 (1983 No 98)

Toxic Substances Amendment Act 1983 (1986 No 111)

Toxic Substances Amendment Act 1988 (1988 No 215)

Schedule 5 Explosives Amendment Act 2000: item inserted, on 15 November 2000,
by section 4 of the Explosives Amendment Act 2000 (2000 No 63).

Controlled pesticides

Part 1

- 1 Sodium fluoroacetate (also known as 1080).
- 2 Methyl naphthyl fluoroacetamide.

Part 2

- 1 Arsenic trioxide.
- 2 Phosphorus.
- 3 Strychnine.
- 4 Sodium cyanide. ----
- 5 Potassium cyanide. | Also known as cyanide.
- 6 Calcium cyanide. ----

Part 3

- 1 3-chloro-p-toluidine hydrochloride (also known as DRC 1339).
- 2 Alphachloralose (as an avicide), except when used as a bait immediately available for use, where the concentration of active ingredient does not exceed 25g/kg (2.5%) of bait.
- 3 4-aminopyridine (also known as Avitrol).

List of substances relevant to
transitional provisionsPart B ss 207(1), 208(2)
Toxic substances

Note : The list of substances in this Part is relevant to the requirement to notify substances being imported. The list follows the schedules for class 6.1 and 8 substances in Volume IV of the International Maritime Dangerous Goods Code published by the International Maritime Organisation (1994).

Class 6.1, Toxic substances

Toxic substance	UN No
Acetone Cyanohydrin, stabilised	1541
Acridine Dibenzopyridine	2713
Acrolein, inhibited	
Acraldehyde, inhibited	
Acrylic Aldehyde, inhibited	1092
Propenal, inhibited	
Acrylamide, solid or solution	2074

Adiponitrile	
1,4-Dicyanobutane	2205
Tetramethylene Cyanide	
Aldol	
Acetaldol	
3-Hydroxybutanal	2839
3-Hydroxybutraldehyde	
3-Butanolal	
Alkaloids, solid, N.O.S., or Alkaloid salts, solid, N.O.S.	1544
Alkaloids, liquid, N.O.S., or Alkaloid salts, liquid, N.O.S.	3140
Allyl Alcohol	
Propenyl Alcohol	1098
Allylamine	
2-Propenylamine	2334
3-Aminopropene	
Allylchloroformate	
Allylchlorocarbonate	1722
Allyl Isothiocyanate, stabilised	
Allyl mustard oil, stabilised	1545
Aluminium phosphide pesticide	3048
2-Amino-4-Chlorophenol	
para-Chloro-ortho-Aminophenol	2673
2-Amino-5-diethylamino-pentane	2946
1-Diethylamino-4-amino-pentane	2946
Aminophenols (ortho-; meta-; para-)	2512
Aminopyridines (ortho-; meta-; para-)	2671
Ammonium Arsenate	1546
Ammonium Dinitro-ortho-Cresolate, solid or solution	1843
Ammonium Fluoride	2505
Ammonium Metavanadate	
Ammonium Vanadate	2859
Ammonium Polyvanadate	2861
Ammunition, tear-producing, non-explosive (with neither burster nor expelling charge, non-fused)	2017
Ammunition, toxic, non-explosive (with neither burster nor expelling charge, non-fused)	2016
Aniline	
Aminobenzene	
Aniline Oil	1547

Phenylamine	
Aniline Hydrochloride	
Aniline Chloride	1548
Aniline salt	
ortho-Anisidine	
ortho-Methoxyaniline	2431
ortho-Aminoanisole	
Antimony compound, inorganic, solid, N.O.S.	1549
Antimony compound, inorganic, liquid, N.O.S.	3141
Antimony Lactate	1550
Antimony Potassium Tartrate	
Potassium Antimony Tartrate	1551
Antimony powder	2871
Arsenic	1558
Arsenic Acid, solid	
Metaarsenic Acid	1554
Arsenic Acid, liquid	
Orthoarsenic Acid	1553
Arsenical dust	
Arsenical flue dust	1562
Arsenic Bromide	
Arsenic Tribromide	1555
Arsenous Bromide	
Arsenic compounds, liquid, N.O.S.	
Arsenates, liquid, N.O.S.	
Arsenites, liquid, N.O.S.	1556
Arsenic compound, organic, liquid, N.O.S.	
Arsenic compound, solid, N.O.S.	
Arsenates, solid, N.O.S.	
Arsenic Sulphides, solid, N.O.S.	1557
Arsenites, solid, N.O.S.	
Arsenic Pentoxide	1559
Arsenic Trichloride	
Arsenic Chloride	
Arsenious Chloride	1560
Arsenous Chloride	
Arsenic Trioxide	
White Arsenic	1561
Barium compound, N.O.S.	1564
Barium Cyanide	1565
Barium Oxide	

Barium Monoxide	1884
Benzidine	1885
Benzonitrile Phenyl Cyanide	2224
Benzoquinone Quinone 1,4-Cyclohexadienedione	2587
Benzyl Bromide alpha-Bromotoluene	1737
Benzyl Chloride	1738
Benzyl Iodide alpha-Iodotoluene	2653
Benzylidene Chloride Benzal Chloride Benzyl Dichloride	1886
Beryllium compound, N.O.S.	1566
Beryllium powder	1567
Bromoacetone	1569
Bromobenzyl Cyanides, liquid or solid	1694
Bromochloromethane Methylene Chlorobromide	1887
Bromoform Tribromomethane	2515
2-bromo-2-nitropropane-1,3-diol Bronopol	3241
Brucine Dimethoxystrychnine	1570
N-normal-Butylaniline	2738
tertiary-Butylcyclohexyl Chloroformate	2747
N-normal-Butylimidazole	2690
N-normal-Butyliminazole	2690
normal-Butyl Isocyanate tertiary-Butyl ilocyanate	2485
Butyltoluenes	2667
1,4-Butynediol 2-Butyne-1,4-Diol	2716
Cacodylic Acid Dimethylarsinic Acid	1572

Cadmium compound	2570
Calcium Arsenate	1573
Calcium Arsenate and Calcium Arsenite mixture, solid	1574
Calcium Cyanide	1575
Carbon Tetrabromide Tetrabromomethane	2516
Carbon Tetrachloride Tetrachloromethane	1846
Chloral, Anhydrous, inhibited Trichloroacetaldehyde, Anhydrous, inhibited Trichloroacetic Aldehyde, Anhydrous, inhibited	2075
Chloroacetic Acid, solution Monochloroacetic Acid, solution	1750
Chloroacetic Acid, solid Monochloroacetic Acid, solid	1751
Chloroacetic Acid, molten Monochloroacetic Acid, molten	3250
Chloroacetone, stablised Monochloroacetone, stablised	1695
Chloroacetonitrile Chloroethane Nitrile Chloromethyl Cyanide	2668
Chloroacetophenone, liquid or solid Phenyl Chloromethyl Ketone, liquid or solid	1697
Chloroacetyl Chloride	1752
Chloroanilines, liquid ortho-Chloroaniline 2-Chloroaniline meta-Chloroaniline 3-Chloroaniline	2019
Chloroanilines, solid para-Chloroaniline 4-Chloroaniline	2018
para-Chloro-ortho-Anisdine	2233
para-Chlorobenzyl Chloride, liquid or solid	2235
1-Chloro-3-Bromopropane Trimethylene Chlorobromide	2688
Chlorocresols, liquid or solid Chloromethylphenols, liquid or solid	2669
2-Chloroethanal	

Chloroacetaldehyde	2232
Chlorodinitrobenzenes, liquid or solid Dinitrochlorobenzenes, liquid or solid	1577
Chloroform Trichloromethane	1888
Chloroformates, toxic, corrosive, flammable, N.O.S. Chlorocarbonates, toxic, corrosive, flammable, N.O.S.	2742
normal-Butyl Chloroformate	2743
Cyclobutyl Chloroformate	2744
Chloroformates, toxic, corrosive, N.O.S. Chlorocarbonates, toxic, corrosive, N.O.S.	3277
Chloromethyl Chloroformate	2745
Phenyl Chloroformate	2746
2-Ethylhexyl Chloroformate	2748
3-Chloro-4-Methylphenyl Isocyanate	2236
Chloronitroanilines	2237
Chloronitrobenzenes ((ortho-; meta-; para-), liquid or solid) 1,2-Chloronitrobenzene 1,3-Chloronitrobenzene 1,4-Chloronitrobenzene	1578
Chloro-ortho-Nitrotoluene 4-Chloro-2-Nitrotoluene	2433
Chlorophenols, liquid Dichlorophenols, liquid	2021
Chlorophenols, solid Dichlorophenols, solid Tetrachlorophenol	2020
Chloropicrin Trichloronitromethane Nitrotrichloromethane	1580
Chloropicrin mixture, N.O.S.	1583
3-Chloropropanol-1 Trimethylene Chloro-Hydrin	2849
2-Chloropyridine	2822
Chlorotoluidines, liquid or solid (ortho-; meta-; para-)	2239
4-Chloro-ortho-Toluidine Hydrochloride, solid or solution	1579
Copper Acetoarsenite	1585
Copper Arsenite	

Cupric Arsenite	1586
Copper Cyanide Cupric Cyanide	1587
Cresols (ortho-; meta-; para-), liquid or solid	2076
Cresylic Acid	2022
Crotonaldehyde, stabilised 3-Methylacrolein, stabilised 2-Butenal, stabilised Crotonic Adlehyde, stabilised	1143
Cyanides, inorganic, solids, N.O.S. Cyanide mixture, inorganic, solid, N.O.S.	1588
Cyanide solution, N.O.S.	1935
Cyanogen Bromide Bromine Cyanide Bromocyane	1889
1,5,9-Cyclododecatriene	2518
Cyclohexyl Isocyanate	2488
4,4'-Diaminodiphenyl-methane p,p'-Methylenedianiline	2651
1,2-Dibromobutan-3-One	2648
Dibromochloropropanes 1,2-Dibromo-3-Chloropropane	2872
Dibromomethane Methylene Dibromide Methylene Bromide	2664
N,N-Di-normal-Butylamino-Ethanol Dibutylaminoethanol 2-Dibutylaminoethanol	2873
1,3-Dichloroacetone 1,3-Dichloro-2-Propanone	2649
Dichloroanilines, solid or liquid	1590
meta-Dichlorobenzene	-
1,3-Dichlorobenzene	-
ortho-Dichlorobenzene 1,2-Dichlorobenzene	1591
2,2'-Dichlorodiethyl Ether Di-(2-Chloroethyl) Ether	1916
Dichlorodimethyl Ether, symmetrical	2249
Dichloroisopropyl Ether	2490

Dichloromethane Methylene Chloride	1593
1,1-Dichloro-1-Nitroethane	2650
Dichlorophenyl Isocyanates	2250
1,3-Dichloropropanol-2 Dichloroisopropyl Alcohol alpha-Dichlorohydrin alpha-Propenyldichlorohydrin Glycerol-1,3-Dichlorohydrin	2750
N,N-Diethylaniline	2432
Diethyl Sulphate Ethyl Sulphate	1594
Di Ketene, inhibited Acetyl Ketene, inhibited	2521
Dimethylaminoethyl Methacrylate	2522
N,N-Dimethylaniline	2253
Dimethylhydrazine symmetrical 1,2-Dimethylhydrazine	2382
Dimethylhydrazine, unsymmetrical 1,1-Dimethylhydrazine	1163
Dimethyl Sulphate Methyl Sulphate	1595
Dimethylthiophosphoryl Chloride Dimethyl Phosphorochloridothionate	2267
Dinitroanilines	1596
Dinitrobenzenes (ortho-; meta-; para-), solid or liquid 1,2-Dinitrobenzene 1,3-Dinitrobenzene 1,4-Dinitrobenzene	1597
Dinitro-ortho-Cresol Dnoc	1598
Dinitrophenol solutions	1599
Dinitrotoluenes, solid or liquid Methyldinitrobenzenes, solid or liquid	2038
Dinitrotoluenes, molten Methyldinitrobenzenes, molten	1600
Diphenylamine Chloroarsine Phenarsazine Chloride	1698
Diphenylchloroarsine, solid or liquid	1699

Diphenylmethane-4,4'-Diisocyanate Methylene Bis-(4-Phenyl Isocyanate)	2489
Disinfectant, solid, toxic, N.O.S	1601
Disinfectant, liquid, toxic, N.O.S.	3142
Dye, liquid, toxic, N.O.S. or Dye intermediates, liquid, toxic, N.O.S.	1602
Dye, solid, toxic, N.O.S. or Dye intermediates, solid, toxic, N.O.S.	3143
Epibromohydrin 1-Bromo-2,3-Epoxypropane	2558
Epichlorohydrin 1-Chloro-2,3-Epoxypropane	2023
N-Ethylaniline Ethylphenylamine	2272
2-Ethylaniline ortho-Ethylaniline	2273
N-Ethyl-n-Benzylaniline N-Ethyl-n-Phenylbenzylamine	2274
N-Ethyl-n-Benzyltoluidines (ortho-; meta-; para-), solid or liquid	2753
Ethyl Bromide Bromoethane	1891
Ethyl Bromoacetate	1603
Ethyl Chloroacetate Ethyl Chloroethanoate	1181
Ethyl Chloroformate Ethyl Chlorocarbonate	1182
Ethyl Cyanoacetate Malonic Ethyl Ester Nitrile	2666
Ethyldichloroarsine	1892
Ethylene Chlorohydrin 2-Chloroethyl Alcohol 2-Chloroethanol Glycol Chlorohydrin	1135
Ethylene Dibromide 1,2-Dibromoethane	1605
Ethylene Glycol Monobutyl Ether 2-Butoxyethanol	2369
Ethyleneimine, inhibited Aziridine, inhibited Dimethyleneimine, inhibited	1185

Ethyl Oxalate	
Diethyl Oxalate	2525
N-Ethyltoluidines (ortho-; meta-; para-)	2754
Ferric Arsenate	1606
Ferric Arsenite	1607
Ferrous Arsenate	1608
Fluoroacetic Acid	
Fluoroethanoic Acid	2642
Fluoroanilines	
2-Fluoroaniline	
ortho-Fluoroaniline	2941
4-Fluoroaniline	
para-Fluoroaniline	
Furfuryl Alcohol	
2-Furyl Carbinol	2874
Glycerol-alpha-Monochlorohydrin	
3-Chloropropanediol-1,2	2689
3-Chloro-1,2-Dihydroxypropane	
Halogenated irritating liquids, N.O.S.	1610
Hexachloroacetone	
Hexachloro-2-Propanone	2661
Hexachlorobenzene	2729
Perchlorobenzene	2729
Hexachlorobutadiene	
1,3-Hexachlorobutadiene	2279
Hexachloro-1,3-butadiene	
Hexachlorocyclopentadiene	
Perchlorocyclopentadiene	2646
Hexachlorophene	
Hexachlorophane	
2,-2'-Methylene Bis-(3,4,6-Trichlorophenol)	2875
Hexaethyl Tetraphosphate	
Ethyl Tetraphosphate	1611
Hexafluoroacetone Hydrate	2552
Hexamethylene Diisocyanate	
Hmdi	2281
Hydrazine, aqueous solution, with not more than 37% hydrazine, by mass	
Diamine, aqueous solution	3293
Hydrazine base, aqueous solution	

Hydrocyanic Acid, aqueous solution, with not more than 20% hydrocyanic acid	
Hydrogen cyanide, aqueous solution	1613
Prussic Acid, aqueous solution	
Hydrogen Cyanide, stabilised, containing less than 3% water	
Hydrocyanic Acid, anhydrous, stabilised	1051
Prussic Acid, anhydrous, stabilised	
Hydrogen Cyanide, stabilised, containing less than 3% water, absorbed in a porous inert material	
Hydrocyanic Acid, anhydrous, stabilised	1614
Prussic Acid, anhydrous, stabilised	
Hydrogen Cyanide, solution in alcohol, with not more than 45% Hydrogen Cyanide	3294
Hydroquinone, solid or liquid	
Hydroquinol, solid or liquid	
Quinol, solid or liquid	2662
1,4-Benzenediol, solid or liquid	
para-Dihydroxybenzene, solid or liquid	
Iron Pentacarbonyl	
Iron Carbonyl	1994
Isocyanates, toxic, N.O.S., or Isocyanate solution, toxic, N.O.S.	2206
Isocyanates, toxic, flammable, N.O.S., or Isocyanate solution, toxic, flammable, N.O.S.	3080
Isocyanatobenzotrifluorides (ortho-; meta-; para-)	
Trifluoromethylphenyl Isocyanates	2285
Isophorone Diisocyanate	
3-Isocyanatomethyl-3,5,5-trimethylcyclohexyl Isocyanate	2290
Isopropyl Chloroformate	
Isopropyl Chloromethanoate	2407
Isopropyl Chlorocarbonate	
Lead Acetate	1616
Lead Arsenates	1617
Lead Arsenites	1618
Lead compounds, soluble, N.O.S.	2291
Lead Cyanide	1620
London Purple	1621
Magnesium Arsenate	1622
Malononitrile	
Cyanoacetonitrile	
Malonodinitrile	2647
Methylene Cyanide	

Medicine, liquid, toxic, N.O.S.	1851
Medicine, solid, toxic, N.O.S.	3249
Mercaptans, liquid, toxic, flammable, N.O.S. Mercaptan mixture, liquid, toxic, flammable, N.O.S.	3071
Mercuric Arsenate	1623
Mercuric Chloride Mercury Bichloride	1624
Mercuric Potassium Cyanide Mercury Potassium Cyanide Potassium Cyanomercurate	1626
Mercurous Nitrate	1627
Mercury Acetate Mercuric Acetate Mercurous Acetate	1629
Mercury Ammonium Chloride Mercuric Ammonium Chloride	1630
Mercury Benzoate Mercuric Benzoate	1631
Mercury Bromides Mercuric Bromide Mercurous Bromide	1634
Mercury compound, liquid, N.O.S.	2024
Mercury compound, solid, N.O.S.	2025
Mercury Cyanide Mercuric Cyanide	1636
Mercury Gluconate Mercuric Gluconate	1637
Mercury Iodide Mercuric Iodide	1638
Mercury Nucleate Mercuriol	1639
Mercury Oleate Mercuric Oleate	1640
Mercury Oxide Mercuric Oxide	1641
Mercury Oxycyanide, desensitised Mercuric Oxycyanide, desensitised	1642
Mercury Potassium Iodide Potassium Mercuric Iodide	1643
Mercury Salicylate	

Mercurous Salicylate	1644
Mercury Sulphate	
Mercuric Sulphate	
Mercurous Sulphate	
Mercury Bisulphate	1645
Mercuric Bisulphate	
Mercurous Bisulphate	
Mercury Thiocyanate	
Mercuric Thiocyanate	1646
Metal Carbonyls, N.O.S.	3281
Methanesulphonyl Chloride	
Mesyl Chloride	3246
N-Methylaniline	
Monomethylaniline	2294
Methyl Benzoate	2938
alpha-Methylbenzyl Alcohol, solid or liquid	
Phenyl Methyl Carbinol, solid or liquid	2937
Methyl Bromide and Ethylene Dibromide mixture, liquid	
Ethylene Dibromide and Methyl Bromide mixture, liquid	1647
Methyl Bromoacetate	2643
Methylbromoacetone	-
Bromomethyl Ethyl Ketone	-
1-Bromo-2-Butanone	-
Methyl Chloroacetate	2295
Methyl Chloroformate	
Methyl Chlorocarbonate	1238
Methyl Chloromethyl Ether	
Chloromethyl Methyl Ether	1239
Methyl Dichloroacetate	2299
2-Methyl-5-Ethylpyridine	
5-Ethyl-2-Picoline	2300
Methylhydrazine	1244
Methyl Iodide	
Iodomethane	2644
Methyl Isocyanate or Methyl Isocyanate solution	
Methyl Isonitrile	2480
Methyl Isothiocyanate	2477
Methyl Orthosilicate	

Tetramethoxysilane	2606
Methyl Trichloroacetate	2533
Motor Fuel Anti-knock mixture Ethyl Fluid Tetraethyllead Tetramethyllead Lead Tetraethyl Lead Tetramethyl	1649
alpha-Naphthylamine, solid or liquid	2077
beta-Naphthylamine, solid or liquid	1650
Naphthylthiourea alpha-Naphthylthiourea 1-Naphthylthiourea	1651
Naphthylurea	1652
Nickel Carbonyl Nickel Tetracarbonyl	1259
Nickel Cyanide	1653
Nicotine	1654
Nicotine compound, liquid, N.O.S. Nicotine preparation, liquid, N.O.S.	3144
Nicotine compound, solid, N.O.S. Nicotine preparation, solid, N.O.S.	1655
Nicotine Hydrochloride, solid or liquid Nicotine Hydrochloride solution	1656
Nicotine Salicylate	1657
Nicotine Sulphate, solid or solution	1658
Nicotine Tartrate	1659
Nitriles, toxic, N.O.S. Cyanides, organic, toxic, N.O.S.	3276
Nitriles, toxic, flammable, N.O.S. Cyanides, organic, toxic, flammable, N.O.S.	3275
Nitroanilines (ortho-; meta-; para-) 1-Amino-2-Nitrobenzene 1-Amino-3-Nitrobenzene 1-Amino-4-Nitrobenzene	1661
Nitroanisoles, solid or liquid Methoxynitrobenzenes, solid or liquid	2730
Nitrobenzene Nitrobenzol	1662
Nitrobenzotrifluorides, liquid or solid	2306

Nitrobromobenzenes, liquid or solid	
Bromonitrobenzenes, liquid or solid	
Nitrobenzene Bromides, liquid or solid	2732
3-Nitro-4-Chlorobenzotrifluoride	
2-Chloro-5-Trifluoromethylnitrobenzene	2307
Nitrocresols	
Methylnitrophenols	2446
Nitrophenols (ortho-; meta-; para-)	1663
Nitrotoluenes (ortho-; meta-; para-), liquid or solid	1664
Nitrotoluidines	2660
Nitroxylens, liquid or solid	1665
tertiary-Octyl Mercaptan	
2-Methylheptanethiol-2	3023
Organoarsenic compound, N.O.S.	3280
Organometallic compound, toxic, N.O.S.	3282
Organophosphorus compound, toxic, N.O.S.	3278
Organophosphorus compound, toxic, flammable, N.O.S.	3279
Organotin compound, liquid, N.O.S.	2788
Organotin compound, solid, N.O.S.	3146
Osmium Teroxide	2471
Pentachloroethane	
Pentalin	1669
Pentachlorophenol	3155
Perchloromethyl Mercaptan	
Thiocarbonyl Tetrachloride	
Trichloromethyl Sulphochloride	1670
Trichloromethane Sulphuryl Chloride	
Pesticide, liquid, toxic, N.O.S.	2902
Carbamate Pesticide, liquid, toxic	2992
Arsenical Pesticide, liquid, toxic, N.O.S.	2994
Organochlorine Pesticide liquid, toxic	2996
Triazine Pesticide, liquid, toxic	2998
Phenoxy Pesticides, liquid, toxic, N.O.S.	3000
Phenyl Urea Pesticide, liquid, toxic	3002
Benzoic Derivative Pesticide, liquid, toxic	3004

Dithiocarbamate Pesticide, liquid, toxic	3006
Phthalimide Derivative Pesticide, liquid, toxic	3008
Copper-based Pesticide, liquid, toxic	3010
Mercury-based Pesticide, liquid, toxic	3012
Substituted Nitrophenol Pesticide, liquid, toxic	3014
Bipyridilium Pesticide, liquid, toxic	3016
Organophosphorus Pesticide, liquid, toxic	3018
Organotin Pesticide, liquid, toxic	3020
Coumarin Derivative Pesticide, liquid, toxic	3026
Pesticide, liquid, toxic, flammable, N.O.S.	2903
Carbamate Pesticide, liquid, toxic, flammable	2991
Arsenical Pesticide, liquid, toxic, flammable	2993
Organochlorine Pesticide, liquid, toxic, flammable	2995
Triazine Pesticide, liquid, toxic, flammable	2997
Phenoxy Pesticide, liquid, toxic, flammable	2999
Phenyl Urea Pesticide, liquid, toxic, flammable	3001
Benzoic Derivative Pesticide, liquid, toxic, flammable	3003
Dithiocarbamate Pesticide, liquid, toxic, flammable	3005
Phthalimide Derivative Pesticide, liquid, toxic, flammable	3007
Copper-based Pesticide, liquid, toxic, flammable	3009
Mercury-based Pesticide, liquid, toxic, flammable	3011
Substituted Nitrophenol Pesticide, liquid, toxic, flammable	3013
Bipyridilium Pesticide, liquid, toxic, flammable	3015
Organophosphorus Pesticide, liquid, toxic, flammable	3017
Organotin Pesticide, liquid, toxic, flammable	3019
Coumarin Derivative Pesticide, liquid, toxic, flammable	3025
Pesticide, solid, toxic, N.O.S.	2588
Carbamate Pesticide, solid, toxic	2757
Arsenical Pesticide, solid, toxic	2759
Organochlorine Pesticide, solid, toxic	2761

Triazine Pesticide, solid, toxic	2763
Phenoxy Pesticide, solid, toxic	2765
Phenyl Urea Pesticide, solid, toxic	2767
Benzoic Derivative Pesticide, solid, toxic	2769
Dithiocarbamate Pesticide, solid, toxic	2771
Phthalimide Derivative Pesticide, solid, toxic	2773
Copper-based Pesticide, solid, toxic	2775
Mercury-based Pesticides, solid, toxic	2777
Substituted Nitrophenol Pesticide, solid, toxic	2779
Bipyridilium Pesticide, solid, toxic	2781
Organophosphorus Pesticide, solid, toxic	2783
Organotin Pesticide, solid, toxic	2786
Coumarin Derivative Pesticide, solid, toxic	3027

Table 6.1: Grouping of pesticides according to percentages of active substances

Note : The UN No provides a reference for the proper shipping name that should be used.

Toxic substance	UN No
Aldicarb	2758
	2991
	2992
	2757
Aldrin	2762
	2995
	2996
	2761
Alkaloids and alkaloid salts	3021
	2903
	2902
	2588
Allidochlor	2762
	2995
	2996
	2761
Aminocarb	2758
	2991
	2992

	2757
	3021
	2903
ANTU	2902
	2588
	2760
Arsenic compounds	2993
	2994
	2759
	2784
Azinphos-ethyl	3017
	3018
	2783
	2784
Azinphos-methyl	3017
	3018
	2783
	2758
Bendiocarb	2991
	2992
	2757
	2758
Benfuracarb	2991
	2992
	2757
	3021
Benquinox	2903
	2902
	2588
	2780
Binapacryl	3013
	3014
	2779
	3021
Blasticidin-S-3	2903
	2902
	2588
	3024
Brodifacoum	3025
	3026
	3027
	2784
Bromophos-ethyl	3017
	3018
	2783
	3021
Bromoxynil	2903
	2902
	2588

	2758
	2991
Butocarboxim	2992
	2757
	2762
	2995
Camphechlor	2996
	2761
	2758
	2991
Carbaryl	2992
	2757
	2758
	2991
Carbofuran	2992
	2757
	2784
	3017
Carbophenothion	3018
	2783
	2758
	2991
Cartap hydrochloride	2992
	2757
	3021
	2903
Chinomethionat	2902
	2588
	2762
	2995
Chlordane	2996
	2762
	2995
Chlordimeform	2996
	2762
	2995
Chlordimeform hydrochloride	2996
	2784
	3017
Chlorfenvinphos	3018
	2783
	2784
	3017
Chlormephos	3018
	2783
	2762
	2995
Chlorophacinone	2996

	2761
Chlorpyriphos	2784 3017 3018 2783
Chlorthiophos	2784 3017 3018 2783
Copper compounds	2776 3009 3010 2775
Coumachlor	3024 3025 3026 3027
Coumafuryl	3024 3025 3026
Coumaphos	3024 3025 3026 3027
Coumatetralyl (Racumin)	3024 3025 3026 3027
Crimidine	2762 2995 2996 2761
Crotoxyphos	2784 3017 3018 2783
Crufomate	2784 3017 3018
Cyanazine	2764 2997 2998 2763
Cyanophos	2784 3017 3018 2783
	3021

	2903
Cycloheximide	2902
	2588
	2787
Cyhexatin	3019
	3020
	2786
	3021
Cypermethrin	2903
	2902
	2588
	2766
2,4-D	2999
	3000
	3021
Dazomet	2903
	2902
	2766
2,4-DB	2999
	3000
	2762
DDT	2995
	2996
	2761
	2784
DEF	3017
	3018
	2784
Demephion	3017
	3018
	2783
	2784
Demeton	3017
	3018
	2783
	2784
Demeton-O (Systox)	3017
	3018
	2783
	2784
Demeton-O-methyl, thiono-isomer	3017
	3018
	2783
	2784
Demeton-S-methyl	3017
	3018
	2783
	2784

	3017
Demeton-S-methylsulfoxide	3018
	2783

	2784
Dialifos	3017
	3018
	2783

	3021
Di-allate	2903
	2902

	2784
Diazinon	3017
	3018
	2783

	2762
1,2-Dibromo-3-chloropropane	2995
	2996
	2761

	2784
Dichlofenthion	3017
	3018

	2784
Dichlorvos	3017
	3018
	2783

	3024
Dicoumarol	3025
	3026
	3027

	2784
Dicrotophos	3017
	3018
	2783

	2762
Dieldrin	2995
	2996
	2761

	3024
Difenacoum	3025
	3026
	3027

	3021
Difenzoquat	2903
	2902

	2784
Dimefox	3017
	3018
	2783

	2758
	2991
Dimetan	2992
	2757

	2784
	3017
Dimethoate	3018
	2783

	2758
	2991
Dimetilan	2992
	2757

	3021
	2903
Dimexano	2902

	2780
	3013
Dinobuton	3014
	2779

	2780
	3013
Dinoseb	3014
	2779

	2780
	3013
Dinoseb acetate	3014
	2779

	2780
	3013
Dinoterb	3014
	2779

	2780
	3013
Dinoterb acetate	3014
	2779

	2758
	2991
Dioxacarb	2992
	2757

	2784
	3017
Dioxathion	3018
	2783

	3021
	2903
Diphacinone	2902
	2588

	3270
Diquat	6220

	6219
	2784
	3017
Disulfoton	3018
	2783
	2780
	3013
DNOC	3014
	2779
	3021
	2903
Drazoxolon	2902
	2588
	2784
	3017
Edifenphos	3018
	2783
	2762
	2995
Endosulfan	2996
	2761
	3021
	2903
Endothal-sodium	2902
	2588
	2784
	3017
Endothion	3018
	2783
	2762
	2995
Endrin	2996
	2761
	2784
	3017
EPN	3018
	2783
	2784
	3017
Enthion	3018
	2783
	2784
	3017
Ethoate-methyl	3018
	2783
	2784
	3017
Ethoprophos	3018
	2783

	3021
	2903
Fenaminosulf	2902
	2588
	2784
Fenamiphos	3017
	3018
	2783
	2784
Fenitrothion	3017
	3018
	2783
	3021
Fenpropathrin	2903
	2902
	2588
	2784
Fensulfothion	3017
	6219
	2783
	2784
Fenthion	3017
	3018
	2783
	2787
Fentin acetate	3019
	3020
	2786
	2787
Fentin hydroxide	3019
	3020
	2786
	3021
Fluorine compounds	2903
	2902
	2588
	3021
Fluoroacetamide	2903
	2902
	2588
	2784
Fonofos	3017
	3018
	2783
	2758
Formetanate	2991
	2992
	6221

Formothion	2784
	3017
	6219

Heptachlor	2762
	2995
	2996
	2761

Heptenophos	2784
	3017
	3018
	2783

Imazalil	3021
	2903
	2902

Ioxynil	3021
	2903
	2902
	2588

Iprobenfos	2784
	3017
	3018

Isobenzan	2762
	2995
	2996
	2761

Isodrin	2762
	2995
	2996
	2761

Isopenphos	2784
	3017
	3018
	2783

Isolan	2758
	2991
	2992
	2757

Isoproc carb	2758
	2991
	2992
	2757

Isothioate	2784
	3017
	3018
	2783

Isoxathion	2784
	3017
	3018
	2783

Kelevan	3021
	2903
	2902
Lindane (gamma-BHC)	2762
	2995
	2996
	2761
Mecarbam	2784
	3017
	3018
	2783
Medinoterb	2780
	3013
	3014
	2779
Mephosfolan	2784
	3017
	3018
	2783
Mercaptodimethur	2758
	2991
	2992
	2757
Mercury (II) (mercuric) compounds	2778
	3011
	3012
	2777
Mercury (I) (mercurous) compounds	2778
	3011
	3012
	2777
Metam-sodium	2771
	2772
	3005
	3006
Methamidophos	2784
	3017
	3018
	2783
Methasulfocarb	2758
	2991
	2992
	2757
Methidathion	2784
	3017
	3018
	2783
	2758

	2991
Methomyl	2992
	2757

	2784
Methyltrithion	3017
	3018
	2783

	2784
Mevinphos	3017
	3018
	2783

	2758
Mexacarbate	2991
	2992
	2757

	2762
Mirex	2995
	2996

	2758
Mobam	2991
	2992
	2757

	2784
Monocrotophos	3017
	3018
	2783

	2772
Nabam	3005
	3006

	2784
Naled	3017
	3018

	3021
Nicotine compounds and preparations	2903
	2902
	2588

	3021
Norbormide	2903
	2902
	2588

	2784
Omethoate	3017
	3018
	2783

	2787
Organotin compounds	3019
	3020
	2786

	3021
	2903
Oxamyl	2902
	2588

	2784
	3017
Oxydemeton-methyl	3018
	2783

	2784
	3017
Oxydisulfoton	3018
	2783

	2784
	3017
Paraoxon	3018
	2783

	2782
	3015
Paraquat	3016
	2781

	2784
	3017
Parathion	3018
	2783

	2784
	3017
Parathion-methyl	3018
	2783

	2762
	2995
Pentachlorophenol	2996
	2761

	2784
	3017
Phenkapton	3018
	2783

	2784
	3017
Phenthoate	3018
	2783

	2784
	3017
Phorate	3018
	2783

	2784
	3017
Phosalone	3018
	2783

	2784

	3017
Phosfolan	3018
	2783

	2784
Phosmet	3017
	3018
	2783

	2784
Phosphamidon	3017
	3018
	2783

	3021
Pindone (and salts of)	2903
	2902

	2758
Pirimicarb	2991
	2992
	2757

	2784
Pirimiphos-ethyl	3017
	3018
	2783

	2758
Promecarb	2991
	2992
	2757

	2758
Promurit (Muritan)	2991
	2992
	2757

	2784
Propaphos	3017
	3018
	2783

	2758
Propoxur	2991
	2992
	2757

	2784
Prothoate	3017
	3018
	2783

	2784
Pyrazophos	3017
	3018

	2784
Pyrazoxon	3017
	3018
	2783

	2784
	3017
Quinalphos	3018
	2783
	3021
	2903
Rotenone	2902
	2588
	2784
	3017
Salithion	3018
	2783
	2784
	3017
Schradan	3018
	2783
	2760
	2993
Sodium arsenite	2994
	2759
	3021
	2903
Strychnine	2902
	2588
	2784
	3017
Sulfotep	3018
	2783
	2784
	3017
Sulprophos	3018
	2783
	2766
2,4,5-T	2999
	3000
	2784
	3017
Temephos	3018
	2783
	2784
	3017
TEPP	3018
	2783
	2784
	3017
Terbufos	3018
	2783
	2764

Terbumeton	2997
	2998

	3021
Thallium compounds	2903
	2902
	2588

	3021
Thallium sulphate	2903
	2902
	2588

	2784
Thiometon	3017
	3018
	2783

	2784
Thionazin	3017
	3018
	2783

	2766
Triadimefon	2999
	3000

	2784
Triamiphos	3017
	3018
	2783

	2784
Triazophos	3017
	3018
	2783

	2787
Tributyltin compounds	3019
	3020
	2786

	2770
Tricamba	3003
	3004

	2784
Trichlorfon	3017
	3018
	2783

	2784
Trichloronat	3017
	3018
	2783

	2787
Triphenyltin compounds other than Fentin acetate and Fentin Hydroxide	3019
	3020
	2786

	2784
	3017
Vamidothion	3018
	2783

	3024
Warfarin (and salts of)	3025
	3026
	3027

(end of pesticides table)

Toxic substance	UN No

Phenacyl Bromide	
omega-Bromoacetophenone	2645

Phenetidines	
ortho-Phenetidine	
para-Phenetidine	2311
Aminophenetoles	

Phenol, molten	
Carbolic Acid, molten	2312

Phenol, solid	
Carbolic Acid, solid	1671

Phenol solution	
Carbolic Acid solution	2821

Phenylacetonitrile, liquid	
Benzyl Cyanide	2470

Phenylcarbylamine Chloride	
Phenyliminophosgene	1672
Phenylisocyanodichloride	

Phenylenediamines (ortho-; meta-; para-)	
Diaminobenzenes (ortho-; meta-; para-)	1673

Phenylhydrazine	
Hydrazinobenzene	2572

Phenyl Isocyanate	
Phenyl Carbimide	2487
Carbanil	

Phenyl Mercaptan	
Benzenethiol	2337
Thiophenol	

Phenylmercuric Acetate	1674

Phenylmercuric compound, N.O.S.	2026

Phenylmercuric Hydroxide	1894
Phenylmercuric Nitrate	1895
Potassium Arsenate Potassium Dihydrogen Arsenate	1677
Potassium Arsenite	1678
Potassium Cuprocyanide Potassium Cyanocuprate (I)	1679
Potassium Cyanide, solid or solution	1680
Potassium Fluoride, solid or solution	1812
Potassium Fluoroacetate	2628
Potassium Metavanadate Potassium Vanadate	2864
normal-Propyl Chloroformate Normal-Propyl Chlorocarbonate	2740
Propylene Chlorohydrin 1-Chloro-2-Propanol	2611
normal-Propyl Isocyanate	2482
Quinoline	2656
Resorcinol 1,3-Benzenediol meta-Dihydroxybenzene 3-Hydroxyphenol Resorcin	2337
Selenates or Selenites	2630
Selenium Disulphide	2757
Selenium compound, N.O.S.	3283
Selenium Powder, non-pyrophoric	2658
Silicofluorides, N.O.S. Fluorosilicates, N.O.S.	2856
Ammonium Silicofluoride Ammonium Fluorosilicate Ammonium Hexafluorosilicate	2854
Magnesium Silicofluoride Magnesium Fluorosilicate Magnesium Hexafluorosilicate	2853
Potassium Silicofluoride Potassium Fluorosilicate Potassium Hexafluorosilicate	2655
Sodium Silicofluoride	

Sodium Fluorosilicate	2674
Sodium Hexafluorosilicate	

Zinc Silicofluoride	
Zinc Fluorosilicate	2855
Zinc Hexafluorosilicate	

Silver Arsenite	
Silver Orthoarsenite	1683

Silver Cyanide	1684

Sodium Ammonium Vanadate	2863

Sodium Arsanilate	
Sodium Hydrogen 4-Aminophenylarsenate	2473

Sodium Arsenate	
Sodium Orthoarsenate	1685

Sodium Arsenite, aqueous solution	1686

Sodium Arsenite, solid	
Sodium Metaarsenite	2027

Sodium Azide	1687

Sodium Cacodylate	1688

Sodium Chloroacetate	
Sodium Monochloroacetate	2659

Sodium Cuprocyanide, solid	
Sodium Copper Cyanide, solid	2316

Sodium Cuprocyanide solution	
Sodium Copper Cyanide solution	2317

Sodium Cyanide, solid or solution	1689

Sodium Fluoride, solid	
Sodium Fluoride, solution	1690

Sodium Fluoroacetate	2629

Sodium Pentachlorophenate	2567

Solids containing toxic liquid, N.O.S.	3243

Strontium Arsenite	
Strontium Orthoarsenite	1691

Strychnine or Strychnine salts	1692

Tear Gas Candles, non-explosive	
Tear Gas Grenades, non-explosive	1700

Tear Gas Substance, liquid or solid, N.O.S.	1693

Tellurium compound, N.O.S.	3284

Tetrabromoethane	
1,1,2,2-Tetrabromoethane	2504
Acetylene-Tetrabromide	

1,1,2,2-Tetrachloroethane	
Acetylene Tetrachloride	1702

Tetrachloroethylene	
Perchloroethylene	1897

Tetraethyl Dithiopyrophosphate	1704

Thallium compound, N.O.S.	1707

Thallium Nitrate	2727

4-Thiapentanal	
Methylmercaptopropionaldehyde	2785

Thioglycol	
2-Mercaptoethanol	2966

Thiolactic Acid	
2-Mercaptopropionic Acid	2936

Thiophosgene	
Thiocarbonyl Chloride	2474

Toluene Diisocyanate	
Toluylene Diisocyanate	2078
Tolylene Diisocyanate	

Toluidines, liquid or solid (ortho-; meta-; para-)	1708

2,4-Toluylenediamine, liquid or solid	1709

Toxic liquid, organic, N.O.S.	2810

Toxic liquid, inorganic, N.O.S.	3287

Toxic liquid, corrosive, organic, N.O.S.	2927

Toxic liquid, corrosive, inorganic, N.O.S.	3289

Toxic liquid, flammable, organic, N.O.S.	2929

Toxic liquid, oxidising, N.O.S.	3122

Toxic solid, oxidising, N.O.S.	3086

Toxic liquid, water-reactive, N.O.S.	3123

Toxic solid, self-heating, N.O.S.	3124

Toxic solid, water-reactive, N.O.S.	3125

Toxic solid, organic, N.O.S.	2811

Toxic solid, inorganic, N.O.S.	3288

Toxic solid, corrosive, organic, N.O.S.	2928

Toxic solid, corrosive, inorganic, N.O.S.	3290
Toxic solid, flammable, organic, N.O.S.	2930
Toxins, extracted from living sources, N.O.S.	3172
Triallyl Borate	2609
Trichlorobenzenes, liquid	2321
Trichlorobutene Trichlorobutylene	2322
1,1,1-Trichloroethane Methylchloroform	2831
Trichloroethylene	1710
Tricresyl Phosphate with more than 3% ortho-isomer Tritolyl Phosphate	2574
2-Trifluormethylaniline 2-Aminobenzotrifluoride	2942
3-Trifluoromethylaniline 3-Aminobenzotrifluoride	2948
Trimethylacetyl Chloride Pivaloyl Chloride	2438
Trimethylhexamethylene Diisocyanate	2328
Tris-(1-aziridinyl)phosphine Oxide, solution Triethylenephosphoramine solution	2501
Vanadium compound, N.O.S.	3285
Vanadium Pentoxide, non-fused form	2862
Vanadyl Sulphate Vanadium Oxysulphate	2931
Vinyl Chloroacetate Chlorovinylacetate	2589
Vinylpyridines, inhibited	3073
Xylenols, solid or liquid Dimethylphenols, solid or liquid Hydroxydimethylbenzenes, solid or liquid	2261
Xylidines, solid or liquid Aminodimethylbenzenes, solid or liquid 3,4-Dimethylaniline	1711
Xylyl Bromide	1701
Zinc Arsenate Zinc Arsenite Zinc Arsenate and Zinc Arsenite mixture	1712

Zinc Cyanide	1713
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Class 8, Corrosives

Toxic substance	UN No
Acetic Acid, glacial or Acetic Acid solution, more than 80% acid, by mass	2789
Acetic Acid solution more than 25% but not more than 80% acid, by mass	2790
Acetic Anhydride Acetic Oxide Acetyl Oxide Ethanoic Anhydride	1715
Acetyl Bromide	1716
Acetyl Iodide	1898
Acrylic Acid, inhibited Acroleic Acid, inhibited Propenoic Acid, inhibited	2218
Alkyl Phenols, solid, N.O.S. (including C2-C12 homologues) Butyl Phenols, solid, N.O.S.	2430
Alkyl Phenols, liquid, N.O.S. (including C2-C12 homologues) Butyl Phenols, liquid, N.O.S.	3145
Alkylsulphuric Acids	2571
Alkyl Sulphonic acids, liquid, with more than 5% free Sulphuric Acid Aryl Sulphonic acids, liquid, with more than 5% free Sulphuric Acid	2584
Alkyl Sulphonic acids, liquid, with not more than 5% free Sulphuric Acid Aryl Sulphonic acids, liquid, with not more than 5% free Sulphuric Acid	2586
Alkyl Sulphonic acids, solid, with more than 5% free Sulphuric Acid Aryl Sulphonic acids, solid, with more than 5% free Sulphuric Acid	2583
Alkyl Sulphonic acids, solid, with not more than 5% free Sulphuric Acid Aryl Sulphonic acids, solid, with not more than 5% free Sulphuric Acid	2585
Allyltrichlorosilane stabilised	1724
Aluminium Bromide, anhydrous	1725

Aluminium Bromide, solution	2580
Aluminium Chloride, anhydrous	1726
Aluminium Chloride, solution	2581
Amines, liquid, corrosive, flammable, N.O.S. Polyamines, liquid, corrosive, flammable, N.O.S.	2734
Amines, liquid, corrosive, N.O.S. Polyamines, liquid, corrosive, N.O.S.	2735
Amines, solid, corrosive, N.O.S. Polyamines, solid, corrosive, N.O.S.	3259
2-(2-Aminoethoxy) Ethanol	3055
N-Aminoethylpiperazine 1-Piperazine Ethylamine	2815
Ammonia Solution, relative density between 0.880 and 0.957 at 15°C in water, with more than 10% but not more than 35% ammonia by mass	2672
Ammonium Hydrogen Difluoride, solid Ammonium Acid Fluoride, solid Ammonium Bifluoride, solid	1727
Ammonium Hydrogen Difluoride, solution Ammonium Acid Fluoride, solution Ammonium Bifluoride, solution	2817
Ammonium Hydrogen Sulphate Ammonium Bisulphate	2506
Ammonium Polysulphide, solution	2818
Ammonium Sulphide, solution	2683
Amyl Acid Phosphate	2819
Amyltrichlorosilane	1728
Anisoyl Chloride	1729
Antimony Pentachloride, liquid Antimony Perchloride, liquid	1730
Antimony Pentachloride, solution Antimony Perchloride, solution	1731
Antimony Pentafluoride	1732
Antimony Trichloride, liquid Antimony Chloride, liquid Antimony Trichloride, solid Antimony Chloride, solid	1733
Battery Fluid, Alkali	2797

Batteries, dry, containing Potassium Hydroxide, solid, electric storage	3028
Batteries, wet, filled with Acid, electric, storage	2794
Batteries, wet, filled with Alkali, electric, storage	2795
Batteries, wet, non-spillable electric, storage	2800
Benzenesulphonyl Chloride Benzosulphochloride	2225
Benzotrichloride Toluene Trichloride Phenylchloroform	2226
Benzoyl Chloride	1736
Benzyl Chloroformate Benzyl Chlorocarbonate	1739
Benzyldimethylamine Dimethylbenzylamine N,N-Dimethylbenzylamine	2619
Bisulphates, aqueous solutions Bisulphites, aqueous solution, N.O.S. Ammonium Bisulphite, solution Calcium Bisulphite, solution Calcium Hydrogen Sulphite, solution Magnesium Bisulphite, solution Potassium Bisulphite, solution Sodium Bisulphite, solution Sodium Hydrogen Sulphite, solution Zinc Bisulphite, solution	2693
Bombs, smoke, non-explosive, with corrosive liquid, without initiating device	2028
Boron Tribromide Boron Bromide Tribromoborane	2692
Boron Trifluoride Acetic Acid complex, solid or liquid	1742
Boron Trifluoride Diethyl Etherate	2604
Boron Trifluoride Dihydrate	2851
Boron Trifluoride Propionic Acid complex, solid or liquid	1743
Bromine or Bromine solutions	1744
Bromoacetic Acid, solid Bromoacetic Acid, solution	1938
Bromoacetyl Bromide	2513
Butyl Acid Phosphate Acid Butyl Phosphate Butyl Phosphoric Acid	1718

Butyltrichlorosilane	1747
normal-Butyric Acid Butanoic Acid Ethylacetic Acid Propylformic Acid	2820
Butyric Anhydride Butanoic Anhydride	2739
Caesium Hydroxide, solid	2682
Caesium Hydroxide, solution	2681
Caproic Acid Hexanoic Acid Hexylic Acid Hexoic Acid	2829
Caustic Alkali liquid, N.O.S. Alkaline Caustic liquid, N.O.S.	1719
Chlorite solution, with more than 5% available chlorine	1908
Chlorophenolates, liquid Phenolates, liquid	2904
Chlorophenolates, solid Phenolates, solid	2905
Chlorophenyltrichlorosilane	1753
Chloroplatinic Acid, solid Platinic Chloride, solid	2507
alpha-Chloropropionic Acid, solid or solution 2-Chloropropionic Acid, solid or solution	2511
Chlorosilanes, corrosive, N.O.S.	2987
Chlorosilanes, corrosive, flammable, N.O.S.	2986
Chlorosulphonic Acid, with or without sulphur trioxide	1754
Chromic Acid, solution	1755
Chromic Fluoride, solid Chromium Fluoride, solid	1756
Chromic Fluoride, solution Chromium Fluoride, solution	1757
Chromium Oxychloride Chromyl Chloride	1758
Chromosulphuric Acid	2240
Copper Chloride Cuprous Chloride Cupric Chloride	2802

Corrosive liquids, N.O.S.	1760
Corrosive liquid, acidic, inorganic, N.O.S.	3264
Corrosive liquid, acidic, organic, N.O.S.	3265
Corrosive liquid, basic, inorganic, N.O.S.	3266
Corrosive liquid, basic, organic, N.O.S.	3267
Corrosive liquid, self-heating, N.O.S.	3301
Corrosive liquid, flammable, N.O.S.	2920
Corrosive liquids, toxic, N.O.S.	2922
Corrosive liquid, water-reactive, N.O.S.	3094
Corrosive solid, self-heating, N.O.S.	3095
Corrosive solids, water-reactive, N.O.S.	3096
Corrosive solid, acidic, inorganic, N.O.S.	3260
Corrosive solid, acidic, organic, N.O.S.	3261
Corrosive solid, basic, inorganic, N.O.S.	3262
Corrosive solid, basic, organic, N.O.S.	3263
Corrosive solid, N.O.S.	1759
Corrosive solid, flammable, N.O.S.	2921
Corrosive solid, toxic, N.O.S.	2923
Corrosive solid, oxidizing, N.O.S.	3084
Corrosive liquid, oxidizing, N.O.S.	3093
Crotonic Acid 2-Butenoic Acid 3-Methacrylic Acid	2823
Cupriethylenediamine, solution	1761
Cyanuric Chloride 2,4,6-Trichloro-1,3,5-Triazine Tricyanogen Chloride	2670
Cyclohexenyltrichlorosilane	1762
Cyclohexylamine Aminocyclohexane	2357
Cyclohexyltrichlorosilane	1763
Dibenzylchlorosilane	2434
Di-(normal-Butyl) Amine	2248

Dichloroacetic Acid	
Bichloroacetic Acid	1764
Dichloroacetyl Chloride	1765
Dichlorophenyltrichlorosilane	1766
Dicyclohexylamine	
Dodecahydrodiphenylamine	2565
Diethyldichlorosilane	1767
Diethylenetriamine	2079
N,N-Diethylethylenediamine	2685
Diethylthiophosphoryl Chloride	2751
Difluorophosphoric Acid, Anhydrous	1768
Diisooctyl Acid Phosphate	
Di-(2-Ethylhexyl) Phosphoric Acid	1902
2-Dimethylaminoethanol	
Dimethylethanolamine	2051
N,N-Dimethylcarbamoyl Chloride	2262
N,N-Dimethylcyclohexylamine	2264
Diphenyldichlorosilane	1769
Diphenylmethyl Bromide	
Benzhydryl Bromide	
Bromodiphenylmethane	1770
Diphenylbromomethane	
Disodium Trioxosilicate, pentahydrate	
Sodium Metasilicate, pentahydrate	3253
Disinfectant, liquid, corrosive, N.O.S	1903
Dodecyltrichlorosilane	1771
Dye, liquid, corrosive, N.O.S.	
Dye Intermediate, liquid, corrosive, N.O.S	2801
Dye, solid, corrosive, N.O.S.	
Dye Intermediate, solid, corrosive, N.O.S	3147
Ethanolamine or Ethanolamine solution	
Monoethanolamine	
2-Aminoethanol	2491
2-Hydroxyethylamine	
Ethyl Chlorothioformate	2826
Ethylenediamine	
1,2-Diaminoethane	1604

Ethylphenyldichlorosilane	2435
2-Ethyl-3-Propylacrolein	-
2-Ethylhexenal	-
Ferric Chloride, anhydrous Ferric Perchloride, anhydrous Iron Chloride, anhydrous Iron Perchloride, anhydrous Iron Trichloride, anhydrous	1773
Ferric Chloride, solution Ferric Perchloride, solution	2582
Iron Chloride, solution	2582
Iron Perchloride, solution Iron Trichloride, solution	2582
Fire Extinguisher charges, corrosive liquid	1774
Fluoroboric Acid Hydrofluoroboric Acid	1775
Fluorophosphoric Acid, anhydrous	1776
Fluorosilicic Acid Hydrofluorosilicic Acid Hydrosilicofluoric Acid Silicofluoric Acid	1778
Fluorosulphonic Acid	1777
Formaldehyde Solution, with not less than 25% Formaldehyde Formalin Solution Formic Aldehyde Solution	2209
Formic Acid Hydrogen Carboxylic Acid	1779
Fumaryl Chloride Fumaroyl Dichloride	1780
Gallium	2803
Hexadecyltrichlorosilane	1781
Hexafluorophosphoric Acid	1782
Hexamethylenediamine, solid 1,6-Hexanediamine, solid 1,6-Diaminohexane, solid	2280
Hexamethylenediamine, solution 1,6-Hexanediamine, solution 1,6-Diaminohexane, solution	1783
Hydrazine, anhydrous	2029
Hydrazine Hydrate or Hydrazine Aqueous solutions with not more	

than 64% hydrazine by mass	2030
Hydriodic Acid, solution Hydrogen Iodide, solution	1787
Hydrobromic Acid, solution Hydrogen Bromide, solution	1788
Hydrochloric Acid, solution Hydrogen Chloride, solution Muriatic Acid, solution	1789
Hydrofluoric Acid, solution Fluoric Acid, solution Hydrogen Fluoride, solution	1790
Hydrofluoric Acid and Sulphuric Acid mixture Acid mixtures, Hydrofluoric Acid and Sulphuric Acid Sulphuric Acid and Hydrofluoric Acid mixture	1786
Hydrogendifluorides, N.O.S. Bifluorides, N.O.S.	1740
Hydrogen Fluoride, anhydrous Hydrofluoric Acid, anhydrous	1052
Hydroxylamine Sulphate Hydroxylammonium Sulphate	2865
Hypochlorite, solution with more than 5% available chlorine Bleach liquour Sodium Hypochlorite, solution Potassium Hypochlorite, solution	1791
3,3'-Iminodipropylamine Diaminopropylamine Dipropylenetriamine	2269
Iodine Monochloride	1792
Isophoronediamine 1-Amino-3-Aminomethyl-3,5,5-Trimethylcyclohexane 3-Aminomethyl-3,5,5-Trimethylcyclohexylamine	2289
Isopropyl Acid Phosphate	1793
Lead Sulphate with more than 3% free acid Lead Dross	1794
Lithium Hydroxide Monohydrate Lithium Hydroxide, solid	2680
Lithium Hydroxide, solution	2679
Maleic Anhydride, solid or molten	2215
Mercury, metal	2809
Methacrylic Acid, inhibited	2531
Methylphenyldichlorosilane	2437

Molybdenum Pentachloride	2508
Nitrating Acid, mixture Acid mixture, Nitrating Acid Mixed Acid	1796
Nitrating Acid, mixture, spent Acid mixture spent, Nitrating Acid Mixed Acid, spent	1826
Nitric Acid, other than red fuming, all concentrations	2031
Nitric Acid, red fuming	2032
Nitrobenzenesulphonic Acid (ortho-; meta-; para-)	2305
Nitrohydrochloric Acid Aqua Regia	1798
Nitrosylsulphuric Acid, solid or liquid	2308
Nonyltrichlorosilane	1799
Octadecyltrichlorosilane	1800
Octyltrichlorosilane	1801
1-Pentol 3-Methyl-2-Penten-4-Yne-0l 1-Hydroxy-3-Methyl-2-Penten-4-Yne	2705
Perchloric Acid with not more than 50% acid, by mass	1802
Phenolsulphonic Acid, liquid	1803
Phenylacetyl Chloride	2577
Phenylphosphorus Dichloride Phenyldichlorophosphine Benzene Phosphorus Dichloride	2798
Phenylphosphorus Thiodichloride Phenyldichlorophosphine Sulphide Benzene Phosphorus Thiochloride	2799
Phenyltrichlorosilane	1804
Phosphoric Acid, solid Orthophosphoric Acid, solid Phosphoric Acid, liquid Orthophosphoric Acid, liquid	1805
Phosphorous Acid, solid or solution	2834
Phosphorus Oxybromide, molten Phosphoryl Bromide, molten	2576
Phosphorus Oxybromide, solid Phosphoryl Bromide, solid	1939

Phosphorus Oxychloride Phosphoryl Chloride	1810
Phosphorus Pentabromide	2691
Phosphorus Pentachloride Phosphoric Chloride Phosphoric Pentachloride Phosphoric Perchloride	1806
Phosphorus Pentoxide Phosphoric Anhydride	1807
Phosphorus Tribromide Phosphorus Bromide	1808
Phosphorus Trichloride Phosphorus Chloride	1809
Phosphorus Trioxide	2578
Phthalic Anhydride with more than 0.5% maleic anhydride, solid or molten	2214
Piperazine, solid or solution Diethylenediamine, solid or solution Pyrazine Hexahydrate, solid or solution	2579
Potassium Hydrogen Difluoride, solid Potassium Acid Fluoride, solid Potassium Bifluoride, solid Potassium Hydrogen Fluoride, solid Potassium Hydrogen Difluoride, solution Potassium Acid Fluoride, solution Potassium Bifluoride, solution Potassium Hydrogen Fluoride, solution	1811
Potassium Hydrogen Sulphate Potassium Bisulphate	2509
Potassium Hydroxide, solid Caustic Potash, solid	1813
Potassium Hydroxide, solution Caustic Potash, liquid	1814
Potassium Monoxide Potassium Oxide	2033
Potassium Sulphide, hydrated with not less than 30% water of crystallization	1847
Propionic Acid, solution containing not less than 80% acid Methyl Acetic Acid	1848
Propionic Anhydride	2496
Propylenediamines 1,2-Propylenediamine 1,3-Propylenediamine	2258

Propyltrichlorosilane	1816
Pyrosulphuryl Chloride Disulphuryl Chloride	1817
Rubidium Hydroxide, solid	2678
Rubidium Hydroxide, solution	2677
Selenic Acid	1905
Selenium Oxychloride Seleninyl Chloride	2879
Silicon Tetrachloride Silicon Chloride	1818
Sludge Acid	1906
Soda Lime	1907
Sodium Aluminate, solution	1819
Sodium Hydrogen Difluoride Sodium Bifluoride	2439
Sodium Hydrosulphide, solid with not less than 25% water of crystallization, or solution Sodium Sulphydrate, solid or solution	2949
Sodium Hydroxide, solid Caustic Soda, solid	1823
Sodium Hydroxide, solution Caustic Soda, solution	1824
Sodium Monoxide Sodium Oxide	1825
Sodium Sulphide, hydrated, with at least 30% water	1849
Solids containing corrosive liquid, N.O.S.	3244
Stannic Chloride, anhydrous Tin Chloride, fuming Tin Tetrachloride	1827
Stannic Chloride Pentahydrate	2440
Sulphamic Acid Aminosulphonic Acid	2967
Sulphur Chlorides Sulphur Dichloride Sulphur Monochloride	1828
Sulphuric Acid, with not more than 51% acid Battery fluid, Acid Battery Acid	2796
Sulphuric Acid, with more than 51% acid	1830

Sulphuric Acid, fuming Disulphuric Acid Oleum Pyrosulphuric Acid	1831
Sulphuric Acid, spent	1832
Sulphurous Acid	1833
Sulphur Trioxide, inhibited Sulphuric Anhydride, inhibited	1829
Sulphuryl Chloride Chlorosulphuric Acid Sulphonyl Chloride Sulphuric Chloride Sulphuric Oxychloride	1834
Tetraethylenepentamine	2320
Tetrahydrophthalic Anhydrides with more than 0.05% maleic anhydride	2698
Tetramethylammonium Hydroxide, solid or liquid	1835
Thioglycolic Acid Mercaptoacetic Acid	1940
Thionyl Chloride Sulphur Oxychloride Sulphurous Oxychloride	1836
Thiophosphoryl Chloride Phosphorus Sulphochloride	1837
Titanium Tetrachloride Titanic Chloride	1838
Titanium Trichloride Mixtures, non-pyrophoric	2869
Tributylamine	2542
Trichloroacetic Acid, solid	1839
Trichloroacetic Acid, solution	2564
Trichloroacetyl Chloride	2442
Triethylenetetramine	2259
Trifluoroacetic Acid	2699
Trimethylcyclohexylamine	2326
Trimethylhexamethylenediamines	2327
normal-Valeryl Chloride	2502
Vanadium Oxytrichloride	2443

Vanadium Tetrachloride	2444
Vanadium Trichloride	2475
Zinc Chloride, anhydrous	2331
Zinc Chloride, solution	1840
Zirconium Tetrachloride	2503

Part C ss 209, 210(1), (3)
Dangerous goods

Note : The classes of dangerous goods in this schedule follow the recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods.

Class 2

Gases, being---

- (a) gases (other than those included under any other paragraph of this Class) when compressed, liquefied, or dissolved under pressure:
- (b) ethane, ethylene, hydrogen, methane, and any other flammable gas (other than that included under any succeeding paragraph of this Class):
- (c) acetylene, compressed or dissolved, and contained within a porous substance:
- (d) liquefied petroleum gas, and any other liquefied flammable gas:
- (e) chlorine:
- (f) anhydrous ammonia:
- (g) liquid oxygen.

Class 3

Flammable liquids, being---

- (a) liquids, mixtures of liquids, and liquids containing solids in solution or suspension, which in each case has a flash point lower than 23o, and nitrocellulose with, by mass, a nitrogen content not exceeding 12.6% wetted with, by mass, not less than 45% flammable liquids with a flashpoint less than 23o Celsius:
- (b) liquids, mixtures of liquids, and liquids containing solids in solution or suspension, which in each case has a flash point of 61o Celsius or lower, but not lower than 23o Celsius, and nitrocellulose with, by mass, a nitrogen content not exceeding 12.6% wetted with, by mass, not less than 45% flammable liquids with a flashpoint of 61o Celsius or lower but not less than

23o Celsius:

(c) fuel oil.

Class 4

Flammable solids, being substances liable to spontaneous combustion or substances which, on contact with water, emit flammable gases, and which consist of the following divisions and categories:

Division 4.1---Flammable solids, being solids, other than those classed as explosives, possessing the common property of being easily ignited by external sources.

Class 4.1, Category A

Dangerous goods	UN No
Nitrocellulose with less than 12.6% nitrogen with at least 18% plasticising substances, in the form of chips, flakes, and blocks	2557

Class 4.1, Category B

Dangerous goods	UN No
Ammonium picrate containing not less than 33 1/3% water	1310
Dinitrophenolates wetted with not less than 33 1/3% water	1321
Dinitrophenols wetted with not less than 15% water	1320
Dinitroresorcinols wetted with not less than 33 1/3% water	1322
Monomethylamine nitrate wetted with not less than 20% water	-
Nitrocellulose wetted with at least 25% water	2555
Nitrocellulose wetted with at least 25% of alcohol or other flammable liquids	2556
Nitroguanidine wetted with not less than 20% water	1336
Nitrostarch wetted with not less than 20% water	1337
Photographic or X-ray film or celluloid	2557
Picric acid wetted with not less than 30% water	1344
Sodium picromate wetted with not less than 20% water	1349
Trinitrobenzene wetted with not less than 30% water	1354
Trinitrobenzoic acid wetted with not less than 30% water	1355

Trinitrotoluene wetted with not less than 30% water	1356
Urea nitrate wetted with not less than 20% water	1357

Class 4.1, Category C

Dangerous goods	UN No
Aluminium powder coated	1309
Calcium hydrosulphide	-
Calcium resinate	1313
Camphor	-
Cobalt Naphthenates	2001
Cobalt resinate	1318
Copper Naphthenate	-
Decaborane	1868
Hafnium powder	1371
Hexamine	1328
Magnesium or alloys containing 75% magnesium	1869
Manganese resinate	-
Matches	1944
	1331
	1945
Mercaptobenzthiazole	-
Mercaptobenzthiazole disulphide	-
Metaldehyde	1332
Mischmetal	1333
Napthalene	1334
Paraformaldehyde	-
Phosphorus red or amorphous	1338
	1339
	1340
	1341
Phosphorus sulphides, free from yellow or white phosphorus	1341
	1343
Rubber Scrap	-
Silicon powder amorphous	1346

Sulphur (fine grained)	1346
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Thermit Powder	1350
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Division 4.2---Substances liable to spontaneous combustion, being solids or liquids possessing the common property of being liable spontaneously to heat and to ignite.

Class 4.2, Category A

Dangerous goods	UN No
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	2221
	2220
	1101
Aluminium alkyl halides pure or in solution	1924
	1925
	1926
	1927
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	1930
Aluminium alkyls	1102
	1103
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Lithium alkyls	-
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	1367
Magnesium alkyls	1368
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Magnesium diphenyl	2005
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Metal alkyls NOS	2003
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Pentaborane	1380
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Phosphorus white or yellow	1381
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	1366
Zinc alkyls	1370
-----	-----
	2008
	1358
Zirconium metal	2009
	1932
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Class 4.2, Category B

Dangerous goods	UN No
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Aluminium powder pyrophoric	1383
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Bags empty but unwashed having contained potassium or sodium nitrate	1350
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Barium powder pyrophoric	1383
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Caesium powder pyrophoric	1383
Calcium powder pyrophoric	1385
Calcium dithionite	1923
Cerium powder pyrophoric	1383
Dimethyl p-nitrosoaniline	1369 1364 1365
Fibres animal or vegetable, cotton or rags, oily or contaminated	1373 1372 1856 1857
Fish meal or scrap	2216 1374
Iron oxide or sponge, spent	1376
Magnesium diamide	2004
Nickel catalyst, finely divided	1378
Potassium dithionite	1929
Potassium sulphide, anhydrous	1382
Silver sulphide	-
Sulphide ores, ground	2007
Sodium dithionite	1384
Sodium sulphide anhydrous	1385
Strontium powder pyrophoric	1383
Zinc powder pyrophoric	1383 1931

Division 4.3---Substances which, in contact with water, emit flammable gases,
being substances which, by interaction with water, are liable to become spontaneously flammable or to emit flammable gases in dangerous quantities.

Class 4.3, Category A

Dangerous goods	UN No
Alkali metal amalgams	1389 1391
Alkaline earth metal dispersors NOS	1392
Caesium metal	1407

Calcium hydride	1404
Calcium phosphide	1360
Hydrides metal NOS	1409
Lithium aluminium hydride	1410
Lithium borohydride	1413
Lithium hydride	1414
Magnesium aluminium phosphide	1419
Magnesium hydride	2010
Magnesium phosphide	2012
Phosphides NOS	-
Potassium borohydride	1870
Potassium phosphide	2012
Potassium metallic liquid alloy	1421
Potassium sodium alloy	1422
Rubidium metal	1423
	1424
Sodium amalgam, metallic liquid alloy or dispersion in organic solvent	1430 1429
Sodium borohydride	1426
Sodium hydride	1427
Sodium methylate, dry	1431
Sodium phosphide	1432
Strontium alloys	1434
Titanium hydride	1871
Trichlorosilane	1295
Zirconium hydride	1437

Class 4.3, Category B

Dangerous goods	UN No
	1390
Alkali metal amides	1412 1425
Aluminium carbide	1394

Aluminium silicone powder uncoated	1398
Aluminium ferrosilicon powder	1395
Aluminium hydride	2463
Barium metal and alloys, non pyrophoric	1399 1400
Calcium metal and alloys, non pyrophoric	1401
Calcium carbide	1402
Calcium cyanamide	1403
Calcium manganese silicon	1406
Calcium silicide	1405
Ferrosilicon containing between 30% and 70% silicon	1408
Lithium metal	1415
Lithium silicon	1417
Magnesium, metal and alloys containing more than 50% magnesium, powder	1418
Potassium metal	1420
Sodium metal	1428
Zinc, powder, dust or ashes, non pyrophoric	1435 1436
Lithium aluminium hydride, ethereal	1411

Class 5

Oxidising substances being,---

(a) bromates, chromates and dichromates, chlorates, chlorites, chromium trioxide (anhydrous), hypochlorites (with more than 39% available chlorine), inorganic peroxides, nitrates, perborates, perchlorates, permanganates, persulphates, potassium nitrite, sodium nitrite, tetranitromethane, urea hydrogen peroxide, hydrogen peroxide, zirconium picramate wetted with not less than 20% water:

(b) organic peroxides.

The term gunpowder means exclusively gunpowder ordinarily so called, consisting of a mixture of charcoal and sulphur with potassium nitrate or sodium nitrate or both; and includes blasting powder.

Class 2: Nitrate mixture

The term nitrate mixture means any preparation (other than gunpowder) formed by the mechanical mixture of a nitrate or perchlorate with any form of carbon or with any carbonaceous substance not possessed of explosive properties, whether sulphur is or is not added to the preparation and whether the preparation is or is not mechanically mixed with any other non-explosive substance.

Class 3: Nitro-compound

The term nitro-compound means any chemical compound possessed of explosive properties, or capable of combining with metals to form an explosive compound, which is produced by the chemical action of nitric acid (whether mixed or not with sulphuric acid) or of a nitrate mixed with sulphuric acid upon any carbonaceous substance, whether the compound is mechanically mixed with other substances or not.

This class is in 2 divisions, namely:

Division 1: Any explosive consisting wholly or partly of 1 or more liquid nitro-compounds.

Division 2: Any other nitro-compound.

Class 4: Chlorate mixture

The term chlorate mixture means any explosive containing a chlorate.

This class is in 2 divisions, namely:

Division 1: Any chlorate preparation which consists in part of a liquid nitro-compound.

Division 2: Any other chlorate mixture.

Class 5: Fulminate

The term fulminate means any chemical compound or mechanical mixture, whether included in the foregoing classes or not, which from its great susceptibility to detonation is suitable for employment in percussion caps or any other appliances for developing detonation, or which from its extreme sensibility to explosion, and from its great instability (that is, its readiness to undergo decomposition from very slight exciting causes) is especially dangerous.

This class is in 2 divisions, namely:

Division 1: Such compounds as the fulminates of silver and mercury, and preparations of those substances; and any preparation consisting of a mixture of a chlorate with phosphorus, or certain descriptions of phosphorous compounds

with or without the addition of carbonaceous matter, and any preparation consisting of a mixture of a chlorate with sulphur, or a sulphide, with or without carbonaceous matter.

Division 2: Such substances as the chloride and the iodide of nitrogen, fulminating gold and silver, diazobenzol, and the nitrate of diazobenzol.

Class 6: Ammunition

The term ammunition means any explosive of any of the foregoing classes enclosed in any case or contrivance so as to form a cartridge, charge, fuse, firing tube, percussion cap, detonator, fog signal, shell, torpedo, war rocket, or other like contrivance other than a firework, or any explosive so otherwise adapted or prepared as to form any contrivance other than a firework.

The term percussion cap means a capsule or case of metal containing not more than 33 milligrams of an explosive of the fifth (fulminate) class, the explosive being covered or protected by a coating of tin foil (or other material approved for that purpose before the date of commencement of this Act) and the case or capsule not containing an anvil:

provided that where the proportion of fulminate of mercury in the composition does not exceed 25%, the aforesaid limit may be increased to 39 milligrams:

provided also that the whole shall be of such strength that the ignition of 1 such cap will not ignite other like caps.

The term railway fog signal means a railway fog signal enclosed in a case or contrivance of such strength and construction and containing an explosive in such quantity that the explosion of 1 railway fog signal will not communicate to other like railway fog signals.

The term safety cartridge means a cartridge for small arms---

(a) the case of which can be extracted from the small arm after firing; and

(b) that is closed in order to prevent an explosion in 1 cartridge being communicated to other cartridges.

The term safety fuse means a fuse for blasting which---

(a) burns and does not explode; and

(b) burns under all conditions of practical use at an approved even average rate; and

(c) does not contain its own means of ignition; and

(d) is of such strength and construction and contains an explosive in such quantity that the burning of the fuse will not communicate laterally to other like fuses.

The term containing its own means of ignition, as applied to ammunition, means

having an arrangement, whether attached to it or forming part of it, which is adapted to explode or fire it by friction or percussion.

This class is in 3 divisions, namely---

Division 1: This division consists of percussion caps, railway fog signals, safety cartridges, safety fuses, and other devices of a similar nature not capable of explosion en masse.

Division 2: Any ammunition which does not contain its own means of ignition and is not included in division 1.

Division 3: Any ammunition which contains its own means of ignition and is not included in division 1.

Class 7: Firework

The term firework comprises firework composition and manufactured fireworks.

The term firework composition means any chemical compound or mechanically mixed preparation of an explosive or inflammable nature which is used for the purpose of making manufactured fireworks and is not included in any of the foregoing classes; and includes any star and any coloured fire composition not included in division 2 or division 3 of this class.

The term manufactured firework means any explosive of any of the foregoing classes or firework composition enclosed in a case or contrivance or otherwise manufactured so as to form a squib, cracker, rocket (other than a war rocket), maroon, lance, wheel, chinese fire, roman candle, or other article specially adapted for the production of pyrotechnic effects or pyrotechnic signals or sound signals; and includes coloured fire compositions when those compositions are of a nature not liable to spontaneous combustion, and in a quantity not exceeding 500 grams, enclosed in a substantially constructed hermetically closed metal case.

This class is in 3 divisions, namely:

Division 1: Firework composition.

Division 2: Manufactured fireworks not falling within division 3 of this class.

Division 3: Manufactured fireworks each of which---

(a) is not a banger, bungler, cannon, or other firework whose sole or principal effect is percussive; and

(b) is not a rocket, tourbillion, or other firework whose sole or principal effect is vertical or horizontal flight; and

(c) contains not more than 40 grams of explosive enclosed in a case of paper or other suitable material of a strength, construction, and character such that the ignition or explosion of 1 such firework will not cause the explosion en masse of similar fireworks kept or carried with it; and

(d) is of a kind or description approved by the Chief Inspector of Explosives before the date of commencement of this Act as being suitable for unrestricted sale.

Schedule 7 Part D class 6: words added, on 2 July 2001, by section 43 of the Hazardous Substances and New Organisms Amendment Act 2000 (2000 No 89).
