



# **Industrial Chemicals (Notification and Assessment) Act 1989**

**No. 8, 1990**

## **Compilation No. 40**

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Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Industrial Chemicals (Notification and Assessment) Act 1989* that shows the text of the law as amended and in force on 3 April 2019 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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**An Act to establish a national system of notification and assessment of industrial chemicals, to provide for registration of certain persons proposing to introduce industrial chemicals, to provide for national standards for cosmetics imported into, or manufactured in, Australia, and for related purposes**

**Part 1—Preliminary**

**1 Short title**

This Act may be cited as the *Industrial Chemicals (Notification and Assessment) Act 1989*.

**2 Commencement**

- (1) Sections 1 and 2 commence on the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.
- (3) If a provision referred to in subsection (2) does not commence under that subsection within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

**3 Objects of Act**

The objects of this Act are to provide for:

- (a) a national system of notification and assessment of industrial chemicals for the purposes of:

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- (i) aiding in the protection of the Australian people and the environment by finding out the risks to occupational health and safety, to public health and to the environment that could be associated with the importation, manufacture or use of the chemicals; and
  - (ii) providing information, and making recommendations, about the chemicals to Commonwealth, State and Territory bodies with responsibilities for the regulation of industrial chemicals; and
  - (iii) giving effect to Australia's obligations under international agreements relating to the regulation of chemicals; and
  - (iv) collecting statistics in relation to the chemicals; being a system under which information about the properties and effects of the chemicals is obtained from importers and manufacturers of the chemicals; and
- (b) national standards for cosmetics imported into, or manufactured in, Australia and the enforcement of those standards.

#### 4 Additional operation of Act

Without prejudice to its effect apart from this section, this Act also has, because of this section, the effect it would have if the references to the manufacture of industrial chemicals or cosmetics in Australia were, by express provision, confined to:

- (a) the manufacture of those chemicals or cosmetics in Australia:
  - (i) by foreign corporations, within the meaning of paragraph 51(xx) of the Constitution; or
  - (ii) by trading corporations formed within the limits of the Commonwealth, within the meaning of that paragraph; or
  - (iii) for supply in the course of trade and commerce with other countries, among the States, within a Territory, between a State and Territory or between 2 Territories; or

- (iv) for supply to, or to an authority or instrumentality of, the Commonwealth or a Territory; and
- (b) the manufacture of those chemicals or cosmetics in a Territory.

## 5 Interpretation

- (1) In this Act, unless the contrary intention appears:

**ADG Code** means the Australian Code for the Transport of Dangerous Goods by Road and Rail published by the Federal Office of Road Safety of the Transport Department as in force from time to time.

**approved** means approved by the Director.

**approved foreign scheme** means a notification and assessment scheme approved by the Minister under section 43.

**assessment certificate** means a certificate given under section 39.

**assessment information**, in relation to an industrial chemical, means information about a matter of which account would be taken in the assessment of the chemical, being a matter specified in paragraph 32(2)(a), (b), (c), (d), (e) or (f).

**assessment report** means a report under section 31, 57, 68 or 68A.

**Australia**, when used in a geographical sense, includes the external Territories.

**basic information**, in relation to a chemical, means all the following information:

- (a) the name or names by which the chemical is known to the public or is intended by its importer or manufacturer to be so known;
- (b) the chemical's general uses;
- (c) the precautions and restrictions to be observed in the manufacture, handling, storage, use and disposal of the chemical;

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- (d) recommendations arising from the assessment of the chemical under this Act that relate to disposing of the chemical and rendering it harmless;
- (e) the procedures to be followed in the event of an emergency involving the chemical;
- (f) prescribed physical and chemical data about the chemical, not being data that would reveal the chemical's composition;
- (g) prescribed data relating to the health effects or the environmental effects of the chemical.

**biopolymer** means:

- (a) a polymer directly produced by living or once-living cells or cellular components; or
- (b) a synthetic equivalent of a polymer referred to in paragraph (a); or
- (c) a derivative or modification of a polymer referred to in paragraph (a) in which the original polymer remains substantially intact.

**chargeable person**, in relation to a registration year, means:

- (a) a person who proposes to introduce relevant industrial chemicals in that registration year of a value that equals or exceeds the threshold value if that person:
  - (i) did not introduce relevant industrial chemicals in the previous financial year; or
  - (ii) introduced relevant industrial chemicals in the previous financial year of a value less than the threshold value; or
- (b) a person who proposes to introduce relevant industrial chemicals in that registration year of any value if that person introduced relevant industrial chemicals in the previous financial year of a value that equalled or exceeded the threshold value.

**chemical** has the meaning given in section 6.

**Chemical Gazette** means an issue of the *Gazette* published:



- (a) unless the regulations prescribe days for the purposes of this definition—on the first Tuesday in any month; or
- (b) where the regulations prescribe days for those purposes—on any of the prescribed days.

**chemical name**, in relation to a chemical, means:

- (a) in the case of a pure chemical—the Chemical Abstracts preferred Index Name, or, if such a name is not available, the name used, or to be used, by the International Union for Pure and Applied Chemistry; or
- (b) in any other case—a complete description of the chemical; including, in the case of a biopolymer, a description of the biological source of the biopolymer.

**commercial** includes financial.

**commercial evaluation**, in relation to an industrial chemical, means testing the chemical with a view to ascertaining its potential for commercial application.

**commercial evaluation permit** means a permit under section 21G.

**confidential section** means the section of the Inventory referred to in subsections 12(4) and (4A).

**controlled use permit** means a permit under section 22F.

**cosmetic** means:

- (a) a substance or preparation intended for placement in contact with any external part of the human body, including:
  - (i) the mucous membranes of the oral cavity; and
  - (ii) the teeth;with a view to:
  - (iii) altering the odours of the body; or
  - (iv) changing its appearance; or
  - (v) cleansing it; or
  - (vi) maintaining it in good condition; or
  - (vii) perfuming it; or

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(viii) protecting it; or

(b) a substance or preparation prescribed by regulations made for the purposes of this paragraph;

but does not include:

(c) a therapeutic good within the meaning of the *Therapeutic Goods Act 1989*; or

(d) a substance or preparation prescribed by regulations made for the purposes of this paragraph.

Note: An ingredient or component of a cosmetic could be an industrial chemical.

**dangerous good** has the meaning given by the ADG Code.

**Department** means an Agency within the meaning of the *Public Service Act 1999*.

**development** does not include tests that relate solely to the commercial evaluation of a product or process.

**Director** means the Director, National Industrial Chemicals Notification and Assessment Scheme, appointed under section 90.

**disposal**, in relation to a chemical or cosmetic, includes disposal of waste resulting from the manufacture or use of the chemical or cosmetic.

**environment** includes all aspects of the surroundings of humans, whether affecting them as individuals or in social groupings.

**environmental effect**, in relation to an industrial chemical, means the effect on the environment of the importation, manufacture, handling, storage, use or disposal of the chemical.

**excluded use** has the meaning given by subsection 7(2).

**exempt information** means information about which the Director has given a notification under section 75, and includes information for which an application for treatment as exempt information has been made under this Act but not finalised.

Note: See also subsection 89(3).

**existing chemical** means an industrial chemical other than a new industrial chemical.

**export**, in relation to an industrial chemical, means do an act that constitutes exportation of the chemical for the purposes of the *Customs Act 1901*, or would constitute such exportation if that Act extended to the external Territories.

**factory cost**, in relation to the industrial chemicals manufactured by a person, means the total of:

- (a) the cost of labour involved in the manufacture; and
- (b) the cost of materials involved in the manufacture other than the cost of any relevant industrial chemical:
  - (i) that is used as an ingredient in the manufacturing; and
  - (ii) in respect of which an amount of registration charge has been paid; and
- (c) the factory overhead expenses;

incurred by the person in respect of the manufacture of the first-mentioned chemicals.

**Gene Technology Regulator** has the same meaning as in the *Gene Technology Act 2000*.

**GM product** has the same meaning as in the *Gene Technology Act 2000*.

**handling**, in relation to a chemical or cosmetic, includes transporting the chemical or cosmetic.

**hazardous chemical** has the meaning prescribed by the regulations.

**health effect**, in relation to an industrial chemical, means the effect on occupational health and safety or on public health of the importation, manufacture, handling, storage, use or disposal, of the chemical.

**holder**, in relation to a permit or an assessment certificate, means a person in respect of whom the permit or certificate is issued.

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***holder of a confidence***, in relation to an industrial chemical, means a person who under section 17 is to be treated as the holder of a confidence about the chemical.

***import***, in relation to an industrial chemical or a cosmetic, means do an act which constitutes importation of the chemical or cosmetic for the purposes of the *Customs Act 1901*, or would constitute such importation if that Act extended to the external Territories.

***importer***, in relation to an industrial chemical, means a person who imports or proposes to import the chemical.

***incidentally-produced chemical*** means a chemical that is produced as a result of:

- (a) the exposure of another chemical to light, heat or other environmental conditions in the course of handling or storage; or
- (b) the occurrence of a chemical reaction during the manufacture or use of another chemical;

but does not include a chemical whose production has commercial value for a person manufacturing, handling, storing or using that other chemical.

***industrial chemical*** has the meaning given in section 7.

***information***, in relation to an industrial chemical, includes:

- (a) information about the result of a test relating to the chemical; and
- (b) other information about such a test.

***inspector*** means:

- (a) a person appointed as an inspector under subsection 84(1); or
- (b) an officer of the Public Service of a State or Territory to whom an arrangement referred to in subsection 84(2) applies.

***introduction***, in relation to an industrial chemical, means the importation, or manufacture in Australia, of the chemical.

***introduction permit*** means a permit under section 30 or 30A.

**Inventory** means the Australian Inventory of Chemical Substances referred to in section 11.

**listed industrial chemical** means an industrial chemical whose particulars are included in the Inventory.

**low volume chemical** means an industrial chemical in respect of which a low volume permit is in force.

**low volume permit** means a permit under subsection 21U(2) or (2A).

**manufacturer**, in relation to an industrial chemical, means a person who manufactures or proposes to manufacture the chemical in Australia.

**modifications** includes additions, substitutions and omissions.

**monomer** means a chemical the molecules of which are capable of forming covalent bonds with 2 or more like or unlike molecules under the conditions of the relevant polymer-forming reactions used for a particular process of polymer formation.

**naturally-occurring chemical** means:

- (a) an unprocessed chemical occurring in a natural environment; or
- (b) a chemical occurring in a natural environment, being a substance that is extracted by:
  - (i) manual, mechanical or gravitational means; or
  - (ii) dissolution in water; or
  - (iii) flotation; or
  - (iv) a process of heating for the sole purpose of removing uncombined water;without chemical change in the substance.

**new industrial chemical** means:

- (a) either:
  - (i) if the chemical is a listed industrial chemical whose introduction is subject to a condition of use included in

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the Inventory under section 13 or subsection 15AB(1)—the chemical but only to the extent that the manufacturer or importer of the chemical introduces, or proposes to introduce, the chemical for any other use; or

(ii) otherwise—an industrial chemical that is not a listed industrial chemical; and

(b) in the case of a synthetic polymer—a chemical that is a new synthetic polymer;

but does not include the following:

(c) a reaction intermediate;

(d) an incidentally-produced chemical.

**new synthetic polymer** means:

(a) a synthetic polymer that includes a combination of monomers and other reactive components each representing greater than 2% by weight, being a combination not listed in the Inventory; or

(b) a synthetic polymer of whose weight greater than 2% is attributable to a monomer or other reactive component that is not listed in the Inventory as a component of a synthetic polymer.

**non-confidential section** means the section of the Inventory referred to in subsection 12(3).

**non-hazardous chemical** has the meaning given by subsection (2).

**notification law**, in relation to a State or Territory, means a law of the State or Territory under which a statement of matters about new industrial chemicals manufactured there are given to an authority of the State or Territory.

**notification statement** means a statement referred to in subsection 23(3).

**occupier**, in relation to a vehicle, vessel or aeroplane, means the person in charge of it.

**officer** means a person who is, or has been:

- (a) the Director; or
- (b) assisting the Director; or
- (c) an inspector.

**permit** means:

- (a) a commercial evaluation permit; or
- (b) a low volume permit; or
- (c) a controlled use permit; or
- (d) an introduction permit.

**polymer** means a chemical:

- (a) consisting of molecules that are:
  - (i) characterised by the sequence of one or more types of monomer units; and
  - (ii) distributed over a range of molecular weights whose differences in the molecular weight are primarily attributable to differences in the number of monomer units; and
- (b) comprising a simple weight majority of molecules containing at least 3 monomer units which are covalently bound to at least one other monomer unit or other reactant; and
- (c) comprising less than a simple weight majority of molecules of the same molecular weight.

**polymer of low concern** means a polymer that:

- (a) either:
  - (i) has a number average molecular weight that is greater than or equal to 1,000 and has such other characteristics relating to weight as are prescribed by the regulations; or
  - (ii) is made from a prescribed reactant and has molecules that contain 2 or more carboxylic acid ester linkages, one or more of which links internal monomer units together; and
- (b) has a low charge density, within the meaning prescribed by the regulations; and

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- (c) is not a hazardous chemical; and
- (d) does not dissociate readily, within the meaning prescribed by the regulations; and
- (e) under the conditions in which it is used is stable, within the meaning prescribed by the regulations; and
- (f) has such other characteristics as are prescribed by the regulations.

**premises** includes:

- (a) a structure, building, aircraft, vehicle or vessel; and
- (b) a place (whether enclosed or built upon or not); and
- (c) a part of premises (including premises of a kind referred to in paragraph (a) or (b)).

**prescribed reactant**, in relation to a polyester, means a substance listed in the regulations as a prescribed reactant.

**previous financial year**, in relation to a particular registration year, means the financial year ending on the last 30 June before the start of that registration year.

**priority existing chemical** means an industrial chemical in respect of which a declaration under section 51 is in force.

**public report** means a report prepared under section 34 as varied or modified in accordance with this Act.

**reaction intermediate** means a substance that:

- (a) is produced in the course of a chemical reaction; and
- (b) has a transient existence; and
- (c) does not become a major component of the reaction mixture; and
- (d) is not removed from the reaction system.

**Register** means the Register established under section 80C.

**registration charge** means a charge imposed on the registration of a chargeable person:



- (a) so far as it is a duty of customs—by the *Industrial Chemicals (Registration Charge—Customs) Act 1997*; and
- (b) so far as it is a duty of excise—by the *Industrial Chemicals (Registration Charge—Excise) Act 1997*; and
- (c) so far as it is neither a duty of customs nor a duty of excise—by the *Industrial Chemicals (Registration Charge—General) Act 1997*.

**registration year** means a period of 12 months beginning on 1 September 1997 or 1 September of any subsequent year.

**Regulatory Powers Act** means the *Regulatory Powers (Standard Provisions) Act 2014*.

**relevant industrial chemical** has the meaning given by section 7A.

**research** does not include research for the purpose of determining market acceptance or consumer preferences.

**Safety Data Sheet**, in relation to a chemical or to a product or substance containing a chemical, means a written statement that:

- (a) identifies the chemical; and
- (b) specifies the health hazards that could be caused by the chemical; and
- (c) specifies the manner of handling the chemical, product or substance in a way that minimises hazards; and
- (d) specifies the procedures to be adopted in the event of any emergency involving the chemical, product or substance; and
- (e) contains information about the chemical and physical properties of the chemical, not being exempt matter or matter referred to in subsection 46(2); and
- (f) contains prescribed information; and
- (g) if there are in force guidelines approved by the Minister by notice in the Chemical Gazette for the purposes of this definition—is prepared in accordance with those guidelines.

**secondary notification** means notification required by section 65.

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**Secretary** means an Agency Head within the meaning of the *Public Service Act 1999*.

**self-assessed assessment certificate** means an assessment certificate given under subsection 39(1A).

**sequence**, in relation to a polymer molecule, means a continuous string of monomer units within the molecule that are covalently bound to one another and are uninterrupted by units other than monomer units.

**supplementary information statement** means the statement described in paragraph 40A(5)(a).

**synthetic polymer** means any polymer other than a biopolymer.

**threshold value**, in relation to relevant industrial chemicals introduced by a person, means \$100,000.

**trade name product** means a chemical included in the section of the Inventory known as Section VIII—AICS Trade Names Annex.

**Transport Department** means the Department administered by the Minister administering the *National Transport Commission Act 2003*.

**Tribunal** means the Administrative Appeals Tribunal.

**use** includes proposed use.

**value of relevant industrial chemicals imported**, in relation to a particular person and a particular period (whether a financial year or a registration year), is the amount worked out in accordance with subsection 7A(2) in respect of that person and that period.

**value of relevant industrial chemicals introduced**, in relation to a particular person and a particular period (whether a financial year or a registration year), means the sum of:

- (a) the value (if any) of the relevant industrial chemicals imported by that person during that period; and

- (b) the value (if any) of the relevant industrial chemicals manufactured by that person during that period.

***value of relevant industrial chemicals manufactured***, in relation to a particular person and a particular period (whether a financial year or a registration year), is the factory cost of manufacturing the industrial chemicals by the person during that period.

- (2) In this Act:

***non-hazardous chemical*** means a chemical in respect of which the following conditions are met:

- (a) the chemical is not a hazardous chemical;
  - (b) the chemical is not a dangerous good;
  - (c) the prescribed criteria relating to the environmental effect of the chemical have been met;
  - (d) any other prescribed conditions have been met;
  - (e) the introduction of the chemical is consistent with the reasonable protection of occupational health and safety, public health and the environment.
- (3) The Director must take account of the following matters in deciding whether he or she is satisfied that the condition referred to in paragraph (e) of the definition of ***non-hazardous chemical*** is met:
    - (a) the proposed nature of the use of the chemical;
    - (b) the extent of the proposed use of the chemical;
    - (c) the effect of the chemical on the environment;
    - (d) the effect of the chemical on occupational health and safety and public health;
    - (e) the structure and activity of the chemical;
    - (f) whether, in Australia or overseas, the chemical is the subject of:
      - (i) investigations initiated by a person because of concerns about a possible adverse effect on occupational health and safety, public health or the environment; or

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- (ii) action taken by a person to control the use of, or access to, the chemical;
- (g) any other prescribed matter.

## 6 Meaning of chemical

- (1) In this Act, unless the contrary intention appears:

**chemical** includes:

- (a) a chemical element, including a chemical element contained in a mixture; or
- (b) a compound or complex of a chemical element, including such a compound or complex contained in a mixture; or
- (c) a UVCB substance; or
- (d) a naturally-occurring chemical;

but does not include:

- (e) an article; or
- (f) a radioactive chemical; or
- (g) a mixture.

- (2) In this section:

**article** means an object that:

- (a) is manufactured for use for a particular purpose, being a purpose that requires that the object have a particular shape, surface or design; and
- (b) is formed to that shape, surface or design during manufacture; and
- (c) undergoes no change of chemical composition when used for that purpose except as an intrinsic aspect of that use;

but does not include a particle or a fluid.

**mixture** means a physical combination of chemicals resulting from deliberate mixing of those chemicals or from a chemical reaction, but does not include a UVCB substance.

**radioactive chemical** means a chemical having a specific activity greater than 35 becquerels per gram.

**UVCB substance** means:

- (a) a chemical of unknown or variable composition; or
- (b) a complex product of a chemical reaction; or
- (c) biological material, other than a whole animal or a whole plant.

## 7 Meaning of industrial chemical

- (1) In this Act, unless the contrary intention appears:

**industrial chemical** means a chemical that has an industrial use, whether or not it also has an excluded use.

- (2) In this section:

**agricultural chemical** means a substance or mixture of substances that is a means of directly or indirectly:

- (a) destroying, stupefying, inhibiting, attracting or repelling a pest in relation to a plant, a place or a thing; or
- (b) destroying a plant; or
- (c) modifying the physiology of a plant so as to alter its natural development, productivity or reproductive capacity; or
- (d) modifying the effect of another agricultural chemical product;

but does not include:

- (e) a veterinary chemical product; or
- (f) a substance or mixture of substances of a kind that is declared by regulations made under the *Agricultural and Veterinary Chemicals Code Act 1994* not to be an agricultural chemical product for the purposes of that Act.

**excluded use**, in relation to a chemical, means:

- (a) use as an agricultural chemical or a constituent of an agricultural chemical; or
- (b) use as a veterinary chemical or a constituent of a veterinary chemical; or

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- (c) therapeutic use or use as an ingredient or component in the preparation or manufacture of goods for therapeutic use; or
- (d) use as food intended for consumption by humans or animals or a constituent of such food; or
- (e) use as a food additive in food referred to in paragraph (d).

**food additive** means a chemical whose inclusion in food as a food additive is permitted under the Australia New Zealand Food Standards Code (as defined for the purposes of the *Food Standards Australia New Zealand Act 1991*).

**industrial use**, in relation to a chemical, means a use other than an excluded use.

**therapeutic use** means use in, or in connection with:

- (a) preventing, diagnosing, curing or alleviating diseases, ailments, defects or injuries in humans; or
  - (b) influencing, inhibiting or modifying physiological processes in humans; or
  - (c) testing the susceptibility of humans to diseases or ailments;
- and, without limiting this, includes use in, or in connection with, testing for pregnancy, contraception, prosthetics or orthotics.

**veterinary chemical product** means a substance or mixture of substances that is:

- (a) a means of directly or indirectly:
  - (i) preventing, diagnosing, curing or alleviating a disease or condition in an animal or an infestation of an animal by a pest in relation to that animal; or
  - (ii) curing or alleviating an injury suffered by an animal; or
  - (iii) modifying the physiology of an animal:
    - (A) so as to alter its natural development, productivity or reproductive capacity; or
    - (B) so as to make it more manageable; or
- (b) prepared by a pharmacist or veterinary surgeon, in the course of the practice of his or her profession, to deal with a

particular condition of a particular animal in a particular instance;

but does not include a substance or mixture of substances of a kind that is declared by regulations made under the *Agricultural and Veterinary Chemicals Code Act 1994* not to be a veterinary chemical product for the purposes of that Act.

### 7A Meaning of value of relevant industrial chemicals etc.

(1) In this Act:

**biological material** does not include a whole plant or a whole animal.

**relevant industrial chemical** means an industrial chemical:

- (a) that is not intended for an excluded use; and
  - (b) that is not:
    - (i) a naturally-occurring chemical; or
    - (ii) biological material; or
    - (iii) an incidentally-produced chemical; or
    - (iv) a reaction intermediate.
- (2) The value of relevant industrial chemicals imported by a person during a particular period (whether a financial year or a registration year) is the amount, worked out to the nearest whole dollar, using the formula:

$$V + CIF + CD$$

where:

**V** means the customs value (within the meaning of section 159 of the *Customs Act 1901*) of all of those relevant industrial chemicals.

**CIF** means the cost of the insurance and freight relating to those chemicals.

**CD** means the customs duty payable on those chemicals.

## 8 Application of Act

This Act extends to every external Territory.

## 9 Act to bind Crown

This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory and of the Northern Territory, but nothing in this Act renders the Crown liable to be prosecuted for an offence.

## 10 Relationship to other Commonwealth laws etc.

The provisions of this Act are in addition to, and not in substitution for, the requirements of any other law of the Commonwealth (whether passed or made before or after the commencement of this Act).

## 10AA Application of *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

## 10A Consultation with Gene Technology Regulator

- (1) This section applies to the following:
  - (a) an assessment of an industrial chemical that is, or contains, a GM product;
  - (b) an application for a permit (however described) in relation to an industrial chemical that is, or contains, a GM product.
- (2) Subject to subsection (5), the Director must give written notice to the Gene Technology Regulator:
  - (a) stating that the assessment is to be undertaken, or that the application for the permit has been made, as the case requires; and



- (b) requesting the Gene Technology Regulator to give advice about the assessment or the application for the permit.
- (3) If the Director gives the Gene Technology Regulator a notice under subsection (2), the Gene Technology Regulator may give written advice to the Director about the assessment or the application.
- (4) The advice is to be given within the period specified in the notice.
- (5) If an advice from the Gene Technology Regulator is in force under section 10B in relation to a class of GM products, the Director is not required to notify the Regulator under this section in relation to:
  - (a) an assessment of an industrial chemical that is or contains a GM product belonging to that class; or
  - (b) an application for a permit in respect of an industrial chemical that is or contains a GM product belonging to that class.

**10B Director may seek advice about classes of GM products**

- (1) The Director may request advice from the Gene Technology Regulator in relation to industrial chemicals that consist of, or that contain, a GM product belonging to a class of GM products specified in the request.
- (2) A request for advice under subsection (1) must specify the matters to which the advice is to relate.
- (3) If the Director requests advice from the Gene Technology Regulator under subsection (1), the Gene Technology Regulator may provide written advice in relation to the matters specified in the request.
- (4) If the Gene Technology Regulator gives advice to the Director under subsection (3), the advice remains in force until it is withdrawn by the Gene Technology Regulator by written notice given to the Director.

**10C Director to take advice into account**

If the Director receives advice from the Gene Technology Regulator:

- (a) in response to a notice under section 10A within the period specified in the notice; or
- (b) under section 10B;

the Director must:

- (c) ensure that the advice is taken into account in undertaking the assessment, or in making a decision on the application for the permit, as the case requires; and
- (d) inform the Gene Technology Regulator of the assessment, or the decision on the application, as the case requires.

## **Part 2—Australian Inventory of Chemical Substances**

### **Division 1—Keeping of Inventory**

#### **11 Inventory**

- (1) The Director must keep the inventory known as the Australian Inventory of Chemical Substances.
- (2) The Inventory must be kept in the prescribed form at such place as the Director directs, and may be kept by electronic means.
- (3) If a chemical is included in the Inventory, the chemical may be imported into Australia, or manufactured in Australia, without obtaining an assessment certificate or permit.
- (4) However, if the importation or manufacture of the chemical is subject to a condition included in the Inventory under section 13 or subsection 15AB(1), the chemical may only be imported or manufactured without obtaining an assessment certificate or permit if the importation or manufacture is in accordance with the condition.

Note: Subsections (3) and (4) are not intended to be an exhaustive description of the effects or consequences of including a chemical, or a condition on the importation or manufacture of a chemical, in the Inventory. There may be other consequences, express or implied, because of other provisions of the Act.

#### **12 Content of Inventory**

- (2) The Inventory is to consist of a non-confidential section and a confidential section.
- (3) The non-confidential section is to contain approved particulars of:
  - (d) each chemical included under subsection 14(7); and
  - (da) each chemical included under subsection 15AB(1); and

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- (db) any particulars included in the Inventory under subsection 15AB(1) in respect of a chemical included in the Inventory under that subsection; and
  - (e) each chemical transferred under section 19; and
  - (f) any condition of use, or any other condition, to which the importation or manufacture of a chemical referred to in paragraph (d), (da) or (e) is subject under section 13; and
  - (g) any other matter included under section 13 in respect of a chemical referred to in paragraph (d), (da) or (e).
- (4) The confidential section is to contain approved particulars of:
- (a) each chemical transferred under section 18A; and
  - (c) each chemical included under subsection 14(4);
- other than chemicals transferred under section 19.
- (4A) The confidential section is also to contain approved particulars of:
- (a) any condition of use, or any other condition, to which the importation or manufacture of a chemical referred to in paragraph (4)(a) or (c) is subject under section 13; and
  - (b) any other matter included under section 13 in respect of a chemical referred to in paragraph (4)(a) or (c).
- (5) The names of naturally occurring chemicals are to be regarded as included in the non-confidential section.
- (6) The Inventory is not to contain particulars of a chemical removed from it under section 63 unless those particulars are subsequently required to be included under section 14.

**13 Conditions of use etc. of, and other information about, chemicals**

- (1) The Director may include in the Inventory the following particulars in respect of a chemical included in the Inventory:
- (a) particulars of any condition of use to which the importation or manufacture of the chemical is subject;
  - (b) particulars of any other condition to which the importation or manufacture of the chemical is subject;

- (c) any particulars about the assessment of the chemical under Division 3 of Part 3;
- (d) any other particulars in respect of the chemical that are prescribed by regulations for the purposes of this section.

- Note 1: For example, the Director may include particulars recommending the secondary notification of a chemical in particular circumstances.
- Note 2: The Director is required to give notice in the Chemical Gazette if the Director proposes to include particulars in the Inventory (see section 13A).
- Note 3: A person who breaches a condition on the importation or manufacture of a chemical in the Inventory might commit an offence (see section 15A).

- (2) The Director may:
- (a) include particulars at the time a chemical is included in the Inventory or at a later time; and
  - (b) vary particulars already included in the Inventory in respect of a chemical; and
  - (c) remove particulars already included in the Inventory in respect of a chemical.

- Note: The Director is required to give notice in the Chemical Gazette if the Director proposes to include or vary particulars in the Inventory (see section 13A).

### **13A Director to notify of inclusion or variation of particulars**

- (1) If at any time the Director proposes, under section 13, to include or vary particulars in the Inventory in respect of a chemical, the Director must give notice in the Chemical Gazette that he or she proposes to include or vary the particulars in respect of the chemical.
- (2) The notice must state:
  - (a) the name under which the chemical has been or is to be included in the Inventory; and
  - (b) any name by which the chemical is commonly known; and
  - (c) that the Director proposes to include or vary the particulars in the Inventory in respect of the chemical; and

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- (d) that a person may give a statement to the Director, within 28 days of the date of publication of the notice, giving reasons why the particulars should not be included or varied.
- (3) If the Director knows the name and address of a person who is introducing or proposes to introduce the chemical, the Director must send a copy of the notice to the person.
- (4) If the Director receives a statement from a person giving reasons why the particulars should not be included or varied, the Director must reconsider the proposed inclusion or variation in the light of the statement.
- (5) If the Director accepts the reasons why the particulars should not be included or varied, the Director must:
  - (a) publish a notice in the Chemical Gazette that the particulars are not going to be included or varied in respect of the chemical; and
  - (b) give a copy of the notice to the person who gave the statement.
- (6) If the Director rejects the reasons why the particulars should not be included or varied, the Director must:
  - (a) give the person who made the statement notice of the decision to reject the reasons; but
  - (b) not include or vary the particulars until 28 days after the date of the giving of the notice or, if the person applies to the Tribunal for review of the decision, until the review has been finalised.
- (7) A notice under this section may be included with a notice under another section under this Act.

**13B Inclusion of new industrial chemical in non-confidential section of Inventory before 5 years**

- (1) This section applies if:
    - (a) an assessment certificate (other than an extension of an original certificate) for an industrial chemical is in force; and
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- (b) the period of 5 years from the giving of the certificate has not yet ended; and
  - (c) the holder or each holder of the certificate applies in the approved form to the Director for the inclusion of the chemical in the non-confidential section of the Inventory; and
  - (d) if the application is made after 28 days of the giving of the certificate—the fee prescribed under section 110 is paid.
- (2) If there are any other assessment certificates in force in respect of the new industrial chemical, the Director must give each holder or holders of those assessment certificates (including each holder of an extension of such a certificate) written notice:
- (a) informing them of the proposed inclusion; and
  - (b) setting out the terms of subsections (3) and (4).
- (3) The holder or each holder of any of those other assessment certificates may apply to the Director in the approved form, within 28 days of the giving of the notice, for the chemical not to be included in the non-confidential section of the Inventory.
- (4) If an application is made under subsection (3) within the 28 days, the Director:
- (a) must not include the chemical in the non-confidential section of the Inventory; and
  - (b) must give a written notice to the applicant or applicants under subsection (1) stating that the chemical is not going to be included in that section of the Inventory; and
  - (c) must repay any fee paid in respect of the application made under subsection (1).
- (5) If an application is not made under subsection (3) within the 28 days, the Director:
- (a) must include the chemical in the non-confidential section of the Inventory; and
  - (b) must give notice in the Chemical Gazette that he or she has included the chemical in the non-confidential section of the Inventory.

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Note: Under section 13, the Director can include conditions and other particulars in respect of a chemical that is included in the Inventory under this section.

**14 Inclusion of new industrial chemical in Inventory after 5 years**

- (1) Where:
- (a) an assessment certificate (other than an extension of an original certificate) for an industrial chemical is in force; and
  - (b) the period of 5 years from the giving of the certificate ends;
- the Director must include the chemical in the Inventory, and must give notice in the Chemical Gazette that he or she has done so.

Note: The Director can include conditions and other particulars in respect of a chemical that is included in the Inventory under this section (see section 13).

- (2) Not less than 28 days before including the chemical in the Inventory, the Director must give each holder of an assessment certificate for the chemical (including each holder of an extension of such a certificate) written notice:
- (a) informing them of the proposed inclusion; and
  - (b) setting out the terms of subsections (3) and (4).
- (3) A holder may apply in the approved form to the Director for the inclusion of the chemical in the confidential section.
- (4) If the Director is satisfied that:
- (a) the publication of some or all of the chemical's particulars could reasonably be expected to prejudice substantially the commercial interests of the applicant; and
  - (b) the prejudice outweighs the public interest in the publication of those particulars;
- the Director must include the chemical in the confidential section.
- (5) The Director must give the applicant written notice of the decision about the application.



- (6) Where the Director decides not to include the chemical in the confidential section, he or she must delay including the chemical in the Inventory for 28 days after giving notice or, where the applicant applies during those days to the Tribunal under section 102 for the review of the decision, until the application to the Tribunal is finalised.
- (7) Where the chemical is not included in the confidential section, it is to be included in the non-confidential section.

### **15 Inventory to be publicly available**

The Director must ensure that copies of the non-confidential section are available for:

- (a) sale to the public; or
- (b) inspection by the public at the prescribed times, and on payment of the prescribed fee (if any).

### **15A Offence for failing to comply with conditions of use etc.**

A person commits an offence if:

- (a) the person imports or manufactures an industrial chemical at a particular time; and
- (b) at that time, the importation or manufacture of the chemical is subject to a condition included in the Inventory under section 13 or subsection 15AB(1); and
- (c) the importation or manufacture breaches the condition.

Penalty: 120 penalty units.

## **Division 1A—Inclusion of previously regulated chemicals in Inventory**

### **15AA Proposal to include previously regulated chemical in Inventory**

- (1) The Director may make a proposal to include or not to include a new industrial chemical in the Inventory if:
- (a) the chemical was previously regulated; and
  - (b) there is no assessment certificate in force for the chemical; and
  - (c) the chemical is currently in use in Australia.

Note: See subsection (9) for the definition of *previously regulated*.

- (2) The Director may include in a proposal the following particulars in respect of a chemical proposed to be included in the Inventory:
- (a) particulars of any condition of use to which the importation or manufacture of the chemical is subject;
  - (b) particulars of any other condition to which the importation or manufacture of the chemical is subject;
  - (c) any other particulars in respect of the chemical that are prescribed by regulations for the purposes of this paragraph.
- (3) In making a proposal, the Director must consider whether the use of the chemical poses an unreasonable risk to occupational health and safety, public health or the environment.
- (4) The Director must give notice of a proposal in the Chemical Gazette.
- (5) The notice must state the following:
- (a) the chemical name for the chemical;
  - (b) the number assigned to the chemical by the service known as the Chemical Abstracts Service, or if that number is not available, the number that accords with an alternative numbering system;

- (c) any name by which the chemical is commonly known;
  - (d) whether the Director proposes to include or not to include the chemical in the Inventory;
  - (e) the reasons why the Director proposes to include or not to include the chemical in the Inventory;
  - (f) if the Director proposes to include the chemical in the Inventory:
    - (i) any particulars that the Director proposes to include in respect of the chemical; and
    - (ii) the reasons why the Director proposes to include those particulars;
  - (g) that a person may give a statement to the Director, within 28 days after the date of publication of the notice, giving reasons why the person objects to the Director's proposal.
- (6) If the Director knows the name and address of a person who is introducing or proposes to introduce the chemical, the Director must send a copy of the notice to the person.
- (7) Once the 28 days mentioned in paragraph (5)(g) have passed, the Director must, having regard to any statements received, make a final decision:
- (a) to include or not to include the chemical in the Inventory; and
  - (b) if the Director decides to include the chemical in the Inventory—to include or not to include specified particulars in respect of the chemical.
- (8) The Director must:
- (a) publish a notice in the Chemical Gazette of the Director's final decision; and
  - (b) give a copy of the notice to any person who gave a statement.
- (9) For the purposes of subsection (1), a chemical was *previously regulated* if:

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- (a) the chemical has been, but is no longer, within the scope of regulation of a Commonwealth law that relates to chemicals and that is prescribed by the regulations; or
- (b) the chemical is contained in a product that has been, but is no longer, within the scope of regulation of any of the following:
  - (i) the *Agricultural and Veterinary Chemicals Code Act 1994*;
  - (ii) the *Therapeutic Goods Act 1989*;
  - (iii) the *Food Standards Australia New Zealand Act 1991*;
  - (iv) another Commonwealth law that relates to chemicals in products (whether consisting of a single chemical or not) and that is prescribed by the regulations.

**15AB Inclusion of previously regulated chemical in Inventory**

(1) If:

- (a) the Director makes a final decision under subsection 15AA(7) to include a new industrial chemical in the Inventory; and
- (b) either:
  - (i) at least 28 days have passed since the Director published the notice mentioned in subsection 15AA(8) and an application to the Tribunal for review of the Director's decision has not been made; or
  - (ii) an application to the Tribunal for review of the Director's decision has been made and review of the decision has been finalised;

then the Director must include the chemical in the Inventory, along with any particulars in respect of the chemical that the Director has made a final decision to include in the Inventory.

Note: Once the chemical has been included in the Inventory, the Director can include and vary conditions and other particulars in respect of the chemical under section 13.

(2) If the Director includes a chemical in the Inventory under subsection (1):

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- (a) the chemical is to be included in the non-confidential section of the Inventory; and
- (b) the Director must give notice in the Chemical Gazette of:
  - (i) the inclusion of the chemical in the Inventory; and
  - (ii) any particulars included in the Inventory in respect of the chemical.

## Division 2—Confidential Section of Inventory

### 16 Confidential section

The confidential section is not to be publicly available.

### 17 Holder of a confidence

- (2) A person who held an assessment certificate for a chemical included in the confidential section under section 14 is to be treated as the holder of a confidence about that chemical.
- (2A) If a chemical is transferred to the confidential section as a result of an application made by a person under section 18A, the person is to be treated as the holder of a confidence about the chemical.
- (3) A person may apply in the approved form to the Director to be treated as the holder of a confidence about an industrial chemical in the confidential section.
- (4) Where the Director is satisfied that the publication of some or all of the particulars of a chemical in relation to which an application under subsection (3) has been made could reasonably be expected to prejudice substantially the commercial interests of the applicant, the applicant is to be treated as the holder of a confidence about the chemical.
- (5) The Director must give the applicant written notice of the decision about the application.
- (6) Where the application is rejected, the applicant is to be treated as the holder of a confidence about the chemical for 28 days after the giving of the notice or, where the applicant applies during those days to the Tribunal under section 102 for the review of the decision, until the application to the Tribunal is finalised.

## **18 Effect of inclusion in confidential section**

- (1) Where an industrial chemical is included in the confidential section, an officer must not publish or disclose any of the particulars recorded in that section in relation to that chemical except:
  - (a) as permitted under this section; or
  - (b) in the course of carrying out duties and functions under this Act; or
  - (c) by order of a court; or
  - (d) with the consent of the holders of a confidence about the chemical.
  
- (2) Where:
  - (a) a person inquires of the Director in writing whether a particular industrial chemical that is not included in the non-confidential section is included in the confidential section; and
  - (b) the Director is satisfied that the person intends to introduce the chemical;the Director may answer the inquiry.
  
- (3) However, if the introduction of the chemical is subject to a condition of use included in the confidential section under section 13, then the Director may only disclose the condition if:
  - (a) the Director has asked the person the use for which the person intends to introduce the chemical; and
  - (b) the Director is satisfied that the person intends to introduce the chemical for that use.
  
- (4) If the Director discloses a condition under subsection (3) to a person, then the Director may also disclose to the person any other conditions in the confidential section to which the introduction of the chemical is subject.

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**18A Transfer of industrial chemical from non-confidential section to confidential section**

- (1) If an industrial chemical was transferred to the non-confidential section under section 19 as in force before the commencement of this section, a person who was a holder of a confidence about the chemical may, within a prescribed period, apply in the approved form to the Director for the transfer of the chemical to the confidential section.
- (2) If the Director is satisfied that:
  - (a) the publication of some or all of the chemical's particulars could reasonably be expected to prejudice substantially the commercial interests of the applicant; and
  - (b) the prejudice outweighs the public interest in the publication of those particulars;the Director must transfer the chemical, and any particulars in respect of the chemical, to the confidential section.
- (3) The Director must give the applicant written notice of the decision about the application.

**19 Transfer of industrial chemical from confidential section to non-confidential section**

*Definitions*

- (1) In this section:

***decision not to transfer***, in respect of a chemical in the confidential section, means:

  - (a) a decision by the Director not to transfer that chemical to the non-confidential section of the Inventory; or
  - (b) if:
    - (i) the Director decides to transfer the chemical to the non-confidential section of the Inventory; and



- (ii) the holder of a confidence about the chemical applies to the Tribunal for a review of the Director's decision within 28 days after the making of the decision; and
- (iii) the Tribunal decides to revoke the Director's decision and substitute a decision not to so transfer the chemical; the Tribunal's decision.

***inclusion date***, in respect of a chemical in the confidential section means:

- (a) unless paragraph (b) applies—the date of the chemical's inclusion in the confidential section; or
- (b) if, since the chemical's inclusion in the confidential section, a decision or decisions have been made not to transfer the chemical—the date of the decision or of the last such decision.

*Inclusion in confidential section to be reviewed every 5 years*

- (2) An industrial chemical, and any particulars in respect of the chemical, in the confidential section must be transferred to the non-confidential section on the fifth anniversary of its inclusion date unless a decision not to transfer the chemical is made before that fifth anniversary.

*Notice of possible transfer*

- (3) The Director must, for each chemical that is in the confidential section, notify each holder of a confidence about the chemical, in writing:
  - (a) that the chemical will be transferred to the non-confidential section unless a decision not to transfer the chemical is made; and
  - (b) setting out the terms of this section.

The Director must give the notice at least 3 months before the fifth anniversary of the inclusion date in respect of that chemical.

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*Holder may state why chemical should not be transferred*

- (4) A holder of a confidence about a chemical may, within 28 days after being given a notice under subsection (3), give the Director a written statement setting out the reasons why the chemical should not be transferred to the non-confidential section.

*After receipt of statement Director must decide*

- (5) If a statement is given under subsection (4), the Director must, not later than the fifth anniversary of the inclusion date in respect of the chemical, make a decision whether or not to transfer the chemical to the non-confidential section.

*Director's decision not to transfer chemical*

- (6) If, having regard to any statement made to the Director under this section by the holder of a confidence about a chemical, the Director is satisfied that:
- (a) the publication of some or all of the chemical's particulars could reasonably be expected to prejudice substantially the commercial interest of any holder of a confidence who gave such a statement; and
  - (b) the prejudice outweighs the public interest in the publication of those particulars;
- the Director:
- (c) must decide not to transfer the chemical to the non-confidential section; and
  - (d) must give written notice of the decision to each holder of a confidence who gave such a statement.

*Director's decision to transfer*

- (7) If, having regard to the statement or statements given to the Director, the Director is not satisfied as specified in subsection (6), the Director:

- (a) must give written notice of the decision to transfer the chemical to each holder of a confidence who made a statement to the Director; but
- (b) must delay transferring the chemical and any particulars in respect of the chemical:
  - (i) unless subparagraph (ii) applies, for 28 days after giving the notice; and
  - (ii) if the holder of a confidence applies during those 28 days to the Tribunal under section 102 for the review of the Director's decision—until the application to the Tribunal is finalised.

## Division 3—Amendment of Inventory

### 20 Amendment of Inventory

The Director may amend the Inventory for the purpose of:

- (a) adding additional information concerning chemicals that were included:
  - (i) before the commencement of Part 2; or
  - (ii) after that commencement under section 13 of the *Industrial Chemicals (Notification and Assessment) Act 1989* as in force at any time before the commencement of the *Industrial Chemicals (Notification and Assessment) Amendment Act (No. 2) 1992*; or
- (aa) adding extra information about industrial chemicals already in the Inventory that was obtained under section 20AB (details of trade name products); or
- (b) correcting an error (except the wrong inclusion of a chemical in the Inventory);

and must give notice in the Chemical Gazette of any such amendment.

Note: The Director can also add or vary information under section 13 about chemicals already in the Inventory.

### 20AA Chemicals wrongly included in the Inventory

- (1) If the Director believes that a chemical has been wrongly included in the Inventory, the Director must give notice in the Chemical Gazette that he or she proposes to remove the chemical from the Inventory.
- (2) The notice must state:
  - (a) the name under which the chemical has been included in the Inventory; and
  - (b) any name by which the chemical is commonly known; and
  - (c) that the Director proposes to remove the chemical from the Inventory; and

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- (e) that a person may give a statement to the Director, within 3 months of the date of publication of the notice, giving reasons why the chemical should not be removed.
- (3) If the Director knows the name and address of a person who is introducing the chemical, the Director must send a copy of the notice to the person.
- (4) If the Director receives a statement from a person giving reasons why the chemical should not be removed, the Director must reconsider the proposed removal in the light of the statement.
- (5) If the Director accepts the reasons why the chemical should not be removed, the Director must:
  - (a) leave the chemical, and any particulars in respect of the chemical, in the Inventory; and
  - (b) publish a notice in the Chemical Gazette that the chemical is not going to be removed; and
  - (c) give a copy of the notice to the person who gave the statement.
- (6) If the Director rejects the reasons why the chemical should not be removed, the Director must:
  - (a) give the person who made the statement notice of the decision to reject the reasons; but
  - (b) not remove the chemical, or any particulars in respect of the chemical, until 28 days after the date of the giving of the notice or, if the person applies to the Tribunal for review of the decision, until the review has been finalised.

**20AB Details of trade name products**

- (1) The Director may, by written notice, ask that he or she be given the identity of each industrial chemical making up a trade name product.
- (2) A notice must:
  - (a) set out the information required about each trade name product; and

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- (b) set out the form in which the information is required; and
  - (c) state the date (the *due date*), at least 12 months after the date of the notice, by which the information is to be given to the Director; and
  - (d) state that any industrial chemical making up the trade name product that is not already included in the Inventory may be so included; and
  - (e) state that any such chemical that is to be so included may, on application made to the Director, be included in the confidential section of the Inventory if the Director is satisfied that some or all of the particulars of the chemical meet the tests set out in paragraphs 14(4)(a) and (b); and
  - (f) be published in the Chemical Gazette.
- (3) The Director must send a copy of the notice to each person whom the Director is aware:
- (a) nominated the trade name product for entry in the Inventory; or
  - (b) has manufactured the trade name product in Australia; or
  - (c) has imported the trade name product into Australia.
- (4) Subject to subsections (4A), (4B), (4C) and 12(6), if the Director receives the information about the trade name product by the due date, the Director must:
- (a) if particulars of an industrial chemical making up the trade name product have not been included in the Inventory—include those particulars in the Inventory; and
  - (b) remove the trade name product from the Inventory.
- (4A) If an industrial chemical to which paragraph (4)(a) applies has been the subject of an application for inclusion in the confidential section of the Inventory and the Director is satisfied that:
- (a) the publication of some or all of the chemical's particulars could reasonably be expected to prejudice substantially the commercial interests of the person seeking that chemical's inclusion in the confidential section of the Inventory; and

- (b) the prejudice outweighs the public interest in the publication of those particulars;

the Director must include the chemical in the confidential section.

Note: The Director can include conditions and other particulars in respect of a chemical that is included in the Inventory under this subsection (see section 13).

- (4B) If the Director decides, in relation to a chemical to which paragraph (4)(a) applies that has been the subject of such an application for inclusion in the confidential section of the Inventory not to include the chemical in the confidential section, he or she must:

- (a) give the applicant for inclusion of the chemical in that section written notice of the decision on the application; and  
(b) delay including the chemical in the Inventory for 28 days after giving the notice, or, where the applicant applies during that period to the Tribunal under section 102 for review of the decision, until the application to the Tribunal is finalised.

Note: The Director can include conditions and other particulars in respect of a chemical that is included in the Inventory under this subsection (see section 13).

- (4C) If the Director delays the inclusion of an industrial chemical in the Inventory under subsection (4B), the Director must, during the period of that delay, defer removing the trade name product concerned from the Inventory.

- (5) If the Director does not receive the information about each industrial chemical making up the trade name product by the due date, the Director must remove the trade name product from the Inventory.

## Part 3—Notification and Assessment of Industrial Chemicals

### Division 1—New Industrial Chemicals to be Assessed

#### 21 Introduction of new industrial chemicals

- (1) A person must not introduce a new industrial chemical.

Penalty: 300 penalty units.

- (1A) Subsection (1) does not apply if the person holds an assessment certificate in force in relation to the chemical.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1A) (see subsection 13.3(3) of the *Criminal Code*).

- (2) Subsection (1) does not prohibit the introduction of a new industrial chemical in accordance with:

- (a) a commercial evaluation permit; or
- (b) a low volume permit; or
- (c) a controlled use permit; or
- (d) an introduction permit.

Note: A defendant bears an evidential burden in relation to the matters in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

- (3) Subsection (1) does not prohibit the introduction of:

- (a) a new industrial chemical imported solely for an excluded use within the meaning of section 7; or
- (b) a new industrial chemical manufactured in Australia:
  - (i) in an apparatus that is a fixture designed for producing one or more chemicals; and
  - (ii) in the course of a program of research, development or analysis; and
  - (iii) by a person who, before manufacturing the chemical, gave the Director information about the type and



location of the apparatus, and a general description of the program and the type of chemical to be manufactured in the apparatus, and a description of all procedures for the safe disposal of the chemical and any hazardous degradation products derived from the chemical; or

- (e) a new industrial chemical that may be introduced under regulations referred to in paragraph 111(c).

Note: A defendant bears an evidential burden in relation to the matters in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

- (4) Subsection (1) does not prohibit the introduction by a person of an amount of new industrial chemical not exceeding 100 kilograms in a period of 12 months (either by itself or in a mixture with one or more other chemicals):

- (a) unless the person knows that the chemical poses an unreasonable risk to occupational health and safety, public health or the environment; and

- (b) either:

- (i) if the chemical is introduced in a cosmetic—if requirements (if any), prescribed in regulations made for the purpose of this subparagraph, relating to its introduction are met (including requirements relating to its use, packaging or labelling); or
- (ii) otherwise—if requirements (if any), prescribed in regulations made for the purpose of this subparagraph, relating to its introduction are met (including requirements relating to its use, packaging or labelling).

Note: A defendant bears an evidential burden in relation to the matters in subsection (4) (see subsection 13.3(3) of the *Criminal Code*).

- (5) For the purposes of subparagraph (4)(b)(i) or (ii), different requirements may be prescribed in respect of different volumes of a particular chemical.

- (6) Subsection (1) does not prohibit the introduction of the following:

- (a) a new industrial chemical introduced by a person:

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- (i) solely for the purpose of research, development or analysis; and
- (ii) in a quantity of not more than 100 kilograms in any 12 month period;
- (b) a new industrial chemical:
  - (i) that is introduced by a person at a port or airport in Australia; and
  - (ii) that remains subject to customs control under the *Customs Act 1901* at all times before leaving Australia; and
  - (iii) that leaves Australia less than 30 days after the day of introduction;
- (c) a new industrial chemical:
  - (i) that is a non-hazardous chemical; and
  - (ii) that is introduced in a cosmetic; and
  - (iii) whose concentration in the cosmetic is 1% or less; and
  - (iv) whose introduction meets any requirements, prescribed in regulations for the purposes of this subparagraph, relating to its introduction;
- (d) a new industrial chemical:
  - (i) that is a polymer of low concern; and
  - (ii) whose introduction meets any requirements, prescribed in regulations for the purposes of this subparagraph, relating to its introduction.

Note 1: A defendant bears an evidential burden in relation to the matters in subsection (6) (see subsection 13.3(3) of the *Criminal Code*).

Note 2: A person who introduces a new industrial chemical under subsection (6) is required to provide an annual report (see section 21AA).

**21AA Annual reporting obligations for introductions under section 21**

- (1) A person who introduces a new industrial chemical in a registration year under subsection 21(4) or (6) must provide a report to the Director stating:

- (a) the chemical name of the chemical that was introduced in the year; and
  - (b) the volume of the chemical that was introduced in the year.
- (2) The report must be provided before or on 28 September of the following registration year.
  - (3) The report must be provided in the approved form.
  - (4) A person commits an offence if:
    - (a) the person is required to provide a report in accordance with subsections (1) and (2); and
    - (b) the person fails to do so.

Penalty: 10 penalty units.

Note 1: A person does not commit an offence if the person fails to provide the report in the approved form.

Note 2: If a person does not provide the report in accordance with subsection (1) before or on 28 September, the obligation to do so continues after that date, with daily offences being committed until the obligation is complied with (see section 4K of the *Crimes Act 1914*).

- (5) Subsection 4K(2) of the *Crimes Act 1914* ceases to apply in relation to an offence against subsection (4) of this section at the end of the 12th day after 28 September (being 10 October).

Note: Because of this subsection, 120 penalty units is the maximum penalty that can be imposed for offences against subsection (4).

### **21AAA Exempt information supplied under section 21AA**

- (1) A report under section 21AA may be accompanied by an application in the approved form that some or all of the information stated in the report be treated as exempt information under section 75.
- (2) If a person applies under subsection (1) for the chemical name of a chemical introduced during a registration year to be exempt information, the application must include a trade name of the chemical.

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**21AB List of chemicals and summary of information**

- (1) The Director must maintain a list of:
  - (a) the names of the chemicals provided in each report under section 21AA for a registration year; and
  - (b) the volume of such chemicals.
- (2) At least once during the next registration year, the Director must prepare a summary of the information given to the Director under subsection 21AA(1).
- (3) The summary must:
  - (a) include any information of a kind that is prescribed by the regulations; and
  - (b) not contain any exempt information.
- (4) If:
  - (a) the Director has refused an application made under section 21AAA for information given as a result of the notice under section 21AA to be treated as exempt information; and
  - (b) the applicant applies to the Tribunal under section 102 for review of the decision;the Director must, in spite of subsection (2), delay the preparation of the summary until the application for review has been finalised.
- (5) When the Director has prepared the summary, he or she must publish the summary in the Chemical Gazette.

## **Division 1A—Commercial Evaluation Permit System**

### **21A Object of commercial evaluation permit system**

The object of the commercial evaluation permit system is to:

- (a) provide a simple means of by-passing the assessment certificate system in cases where the introduction of new industrial chemicals is required for the sole purpose of commercial evaluation; and
- (b) ensure that the means of by-passing the assessment certificate system is subject to adequate safeguards.

### **21B Application for commercial evaluation permit or renewal of permit**

- (1) A manufacturer or importer of a new industrial chemical may apply for a commercial evaluation permit authorising the applicant to introduce not more than a specified quantity of the chemical in a specified period for the sole purpose of commercial evaluation by whichever of the following persons is specified:
  - (a) in any case—the applicant;
  - (b) in the case of the importation of the chemical—another person who agrees, or 2 or more other persons who jointly agree, to be bound by the conditions of the permit.
- (2) A manufacturer or importer whose commercial evaluation permit relating to a new industrial chemical is still in force may apply for the permit to be renewed if the following conditions are met:
  - (a) the function or use of the chemical has not changed, and is not likely to change, significantly;
  - (b) the amount of the chemical being introduced has not increased, and is not likely to increase, significantly;
  - (c) in the case of a chemical that was not manufactured, or proposed to be manufactured, in Australia at the time the permit was issued—it continues not to be manufactured in Australia;

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- (d) the method of manufacture of the chemical in Australia has not changed, and is not likely to change, in a way that may result in an increased risk of an adverse effect on occupational health and safety, public health or the environment;
  - (e) no additional information has become available to the manufacturer or importer as to any adverse effects of the chemical on occupational health and safety, public health or the environment;
  - (f) no event prescribed for the purposes of section 64 has happened;
  - (g) any conditions of the permit imposed by or under section 21L were complied with during the period of the current permit;
  - (h) no changes are required to any conditions of the permit.
- (3) A manufacturer or importer may only apply for a commercial evaluation permit to be renewed once.

**21C Joint applications**

- (1) 2 or more persons, each of whom is a manufacturer or importer of a new industrial chemical, may make a joint application under section 21B.
- (2) If a joint application is made, then, unless the contrary intention appears, a reference in this Division to the applicant is a reference to the joint applicants.

**21D Form of application etc.**

*Form of application*

- (1) An application for a commercial evaluation permit, or a renewal of a commercial evaluation permit, must:
  - (a) be in writing; and
  - (b) be in an approved form; and
  - (c) be given to the Director.

*Material to accompany application for permit*

- (2) An application for a commercial evaluation permit must be accompanied by:
- (a) in any case—a Safety Data Sheet in relation to the chemical; and
  - (aa) in any case—a written explanation why the quantity of the chemical that the applicant seeks to introduce under the permit is reasonably needed for effective commercial evaluation of the chemical; and
  - (b) in any case—such other information as is specified in the regulations; and
  - (c) if a person agrees (whether jointly or otherwise) to be bound by the conditions of the permit—the agreement concerned.

*Form of paragraph 21B(1)(b) agreement*

- (3) An agreement mentioned in paragraph 21B(1)(b):
- (a) must be in writing in the approved form; and
  - (b) is irrevocable.

## **21E Restrictions on applications**

*Maximum quantity—4,000 kilograms*

- (1) The quantity specified in an application must not exceed 4,000 kilograms.

*Maximum period—2 years*

- (2) The period specified in an application:
- (a) must commence on the day on which the application is granted; and
  - (b) must not exceed 2 years.

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*Application invalid if another permit held for the same chemical*

- (3) An application for a commercial evaluation permit, or an application for a renewal of a commercial evaluation permit, for a chemical is invalid if, at any time during the period specified in the application:
- (a) in any case—another commercial evaluation permit relating to the commercial evaluation by the applicant, or any of the joint applicants, (whether jointly or otherwise) of the same chemical will be in force; and
  - (b) if a person agrees (whether jointly or otherwise) to be bound by the conditions of the permit—another commercial evaluation permit relating to the commercial evaluation by the person (whether jointly or otherwise) of the same chemical will be in force.

**21F Director may request further information about application**

- (1) The Director may give an applicant, or another person who agrees (jointly or otherwise) to be bound by the conditions of the permit, a written notice requiring the person given the notice to give the Director further information about a matter referred to in subsection 21D(2), or a matter referred to in the application for the renewal of the commercial evaluation permit, within the period specified in the notice.
- (2) The notice must specify a period of at least 14 days.

**21G Grant of commercial evaluation permit**

- (1) After considering an application, the Director must grant a commercial evaluation permit in accordance with the application.
- (2) This section has effect subject to section 21H (which deals with refusals).



## 21H Refusal of application

*Application to be refused unless quantity of chemical is reasonably needed*

- (1) The Director must refuse an application unless he or she is satisfied that the quantity of the chemical that the applicant seeks to introduce under the permit is reasonably needed for effective commercial evaluation of the chemical.

*Excess period*

- (2) If the period which an applicant seeks to have specified in the permit exceeds 1 year, the Director must refuse the application unless the applicant satisfies the Director that the excess period is reasonably required for the effective commercial evaluation of the chemical.

*Contravention of Act etc.*

- (3) The Director may refuse an application if, at any time during the period commencing 5 years before the application was made, the applicant, any of the joint applicants or a person who agrees (whether jointly or otherwise) to be bound by the conditions of the permit:
  - (a) contravened section 21; or
  - (b) contravened any of the conditions to which a commercial evaluation permit was subject; or
  - (c) made a statement, or gave information:
    - (i) in or in connection with an application for a commercial evaluation permit or an application for a renewal of a commercial evaluation permit; or
    - (ii) in accordance with a requirement under section 21F; or
    - (iii) in accordance with a condition of a kind mentioned in subsection 21L(3);that was false or misleading in a material particular.

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*Failure to provide further information*

- (3AA) The Director may refuse an application if further information required by the Director under section 21F is not given to the Director within the period specified in the notice requiring that further information.
- (3A) The Director may refuse an application for a renewal of a commercial evaluation permit if the Director is satisfied that the conditions in subsection 21B(2) have not been met.

*Notification of refusal of application*

- (4) If the Director refuses an application, the Director must give written notice of the refusal to the applicant.

**21J Notice of permit to be published in Chemical Gazette**

As soon as practicable after a commercial evaluation permit is issued, the Director must cause to be published in the Chemical Gazette a notice stating that the permit has been issued and setting out:

- (a) the name of the holder, or holders, of the permit; and
- (b) either:
  - (i) a trade name of the chemical; or
  - (ii) the chemical name of the chemical; and
- (c) the period of the permit.

**21K Duration of commercial evaluation permit**

A commercial evaluation permit comes into force at the beginning of the period specified in the permit and remains in force until the end of that period.

## **21L Conditions of commercial evaluation permit**

### *Conditions of permit*

- (1) A commercial evaluation permit relating to an industrial chemical is subject to the following conditions:
  - (a) a condition that a person who is or was the holder, or any of the holders, of the permit must not use the chemical, or permit the use of the chemical, for a purpose other than commercial evaluation unless the person holds an assessment certificate in force in relation to the chemical;
  - (b) such other conditions (if any) as are specified by the Director in the permit.

### *Variation etc. of conditions*

- (2) The Director may, by written notice given to the holder or holders of a commercial evaluation permit:
  - (a) impose one or more further conditions to which the permit is subject; or
  - (b) revoke or vary any condition:
    - (i) imposed under paragraph (a); or
    - (ii) specified in the permit.

### *Conditions may require giving of information*

- (3) Without limiting the kinds of conditions to which a commercial evaluation permit may be subject, a commercial evaluation permit may be subject to conditions requiring a person who is or was the holder, or any of the holders, of the permit to give information to the Director.

### *Offence of contravening conditions*

- (4) A person commits an offence if:
  - (a) the person is or was the holder, or any of the holders, of a commercial evaluation permit; and
  - (b) the person does an act or omits to do an act; and

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(c) the act or omission contravenes a condition of the permit.

Penalty: 300 penalty units.

*Defence of reasonable excuse*

(4A) Subsection (4) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4A) (see subsection 13.3(3) of the *Criminal Code*).

*Holder includes a person who agrees to be bound by the conditions of a permit*

(5) For the purposes of this section, if a person agrees (whether jointly or otherwise) to be bound by the conditions of a commercial evaluation permit, the person is taken to be a holder of the permit.

**21M Additional operation of section 21L**

(1) Without prejudice to its effect apart from this subsection, section 21L also has, because of this subsection, the effect it would have if a reference in paragraph 21L(1)(a) to the use of an industrial chemical were, by express provision, confined to the use of that chemical:

- (a) by a foreign corporation, within the meaning of paragraph 51(xx) of the Constitution; or
- (b) by a trading corporation formed within the limits of the Commonwealth, within the meaning of that paragraph; or
- (c) for purposes in connection with the supply of the chemical in the course of trade and commerce with other countries, among the States, within a Territory, between a State and Territory or between 2 Territories; or
- (d) for purposes in connection with the supply of the chemical to, or to an authority or instrumentality of, the Commonwealth or a Territory.

(2) Without prejudice to its effect apart from this subsection, section 21L also has, because of this subsection, the effect it would

have if a reference in paragraph 21L(1)(b) or (2)(a) or (b) to a condition were, by express provision, confined to a condition that relates to:

- (a) conduct engaged in by a foreign corporation, within the meaning of paragraph 51(xx) of the Constitution; or
- (b) conduct engaged in by a trading corporation formed within the limits of the Commonwealth, within the meaning of that paragraph; or
- (c) the supply of the chemical concerned in the course of trade and commerce with other countries, among the States, within a Territory, between a State and Territory or between 2 Territories; or
- (d) the supply of the chemical concerned to, or to an authority or instrumentality of, the Commonwealth or a Territory.

### **21N Cancellation of commercial evaluation permit**

- (1) The Director may, by written notice given to the holder or holders of a commercial evaluation permit, cancel the permit if:
  - (a) the holder, or any of the holders, has contravened any of the conditions to which the permit is subject; or
  - (b) the holder, or any of the holders, has made a statement, or given information:
    - (i) in or in connection with the application for the permit or the application for the renewal of the permit; or
    - (ii) in accordance with a requirement under section 21F in relation to the permit; or
    - (iii) in accordance with a condition of a kind mentioned in subsection 21L(3) to which the permit was subject; that was false or misleading in a material particular.
- (2) For the purposes of this section, if a person agrees (whether jointly or otherwise) to be bound by the conditions of a commercial evaluation permit, the person is taken to be a holder of the permit.

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**21P Exempt information**

- (1) An application for a commercial evaluation permit, or an application for a renewal of a commercial evaluation permit, may include an application that certain information given in accordance with section 21D be treated as exempt information under section 75.
- (2) The giving of information about a chemical under section 21F, or in accordance with a condition of a kind mentioned in subsection 21L(3), may be accompanied by an application in the approved form that some or all of the information be treated as exempt information under section 75.

## **Division 1B—Low Volume Chemicals Permit System**

### **21Q Object of permit system for low volume chemicals**

The object of the permit system for low volume chemicals is to:

- (a) provide a simple means of by-passing the assessment certificate system in respect of a new industrial chemical if the total of the quantities of the chemical that are to be introduced by the person in any 12 month period will not exceed 100 kilograms (or 1,000 kilograms in certain cases); and
- (b) ensure that the means of by-passing the assessment certificate system is subject to adequate safeguards.

### **21R Who may apply for permit or renewal of permit**

- (1) A manufacturer or importer of a new industrial chemical may apply for a low volume permit in respect of the chemical.
- (1A) A manufacturer or importer whose low volume permit in respect of a new industrial chemical is still in force may apply for the permit to be renewed if the following conditions are met:
  - (a) the function or use of the chemical has not changed, and is not likely to change, significantly;
  - (b) the amount of the chemical being introduced has not increased, and is not likely to increase, significantly;
  - (c) in the case of a chemical that was not manufactured, or proposed to be manufactured, in Australia at the time the permit was last issued—it continues not to be manufactured in Australia;
  - (d) the method of manufacture of the chemical in Australia has not changed, and is not likely to change, in a way that may result in an increased risk of an adverse effect on occupational health and safety, public health or the environment;

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- (e) no additional information has become available to the manufacturer or importer as to any adverse effects of the chemical on occupational health and safety, public health or the environment;
  - (f) no event prescribed for the purposes of section 64 has happened;
  - (g) any conditions of the permit imposed by or under section 21W were complied with during the period of the current permit;
  - (h) no changes are required to any conditions of the permit.
- (1B) A manufacturer or importer may apply for a low volume permit to be renewed any number of times.
- (2) 2 or more persons, each of whom is a manufacturer or importer of a new industrial chemical, may make a joint application under subsection (1) or (1A).
- (3) If a joint application is made, then, unless the contrary intention appears, a reference in this Division to the applicant is a reference to the joint applicants.

**21S How application is to be made**

- (1) An application for a low volume permit, or a renewal of a low volume permit, must:
- (a) be in writing; and
  - (b) be in an approved form; and
  - (c) be given to the Director.
- (2) An application for a low volume permit is taken not to be duly made unless the applicant:
- (a) has provided a written statement about the chemical that:
    - (i) states the purpose for which the chemical is to be introduced; and
    - (ii) contains a summary of the chemical's health effects and environmental effects; and



- (iii) sets out the matters referred to in paragraphs 1, 3, 6, 7, 8, 11 and 12 of Part B of the Schedule; and
  - (iv) states the quantity of the chemical proposed to be introduced by the applicant in:
    - (A) the 12 month period beginning on the date on which the application is made; and
    - (B) each of the next two 12 month periods; and
  - (b) has paid the prescribed fee.
- (3) An application for a renewal of a low volume permit is taken not to be duly made unless the applicant has paid the prescribed fee.

#### **21SA Director may request further information about application**

- (1) The Director may give an applicant a written notice requiring the applicant to give the Director further information about a matter referred to in paragraph 21S(2)(a), or a matter referred to in the application for the renewal of the permit, within the period specified in the notice.
- (2) The notice must specify a period of at least 14 days.

#### **21T Applicant may withdraw or amend application**

An applicant may, at any time before the application has been determined, by written notice to the Director, withdraw the application or amend the application or any document that accompanied the application.

#### **21U Determination of application**

- (1) The Director must determine an application within 20 days after:
  - (a) the day the application is made; or
  - (b) if the applicant amends the application or an accompanying document—the day on which the applicant made such an amendment.

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- (1A) If the Director notifies the applicant under section 21SA that he or she is required to give further information, the period starting on the day of notification and ending when the information is received is not to be taken into account in determining the period of 20 days referred to in subsection (1).
- (1B) If the further information required by the Director under section 21SA is not given to the Director within the period specified in the notice requiring that further information, the application is taken to have been withdrawn.
- (2) The Director must grant an application for a low volume permit in respect of a chemical and issue the permit to the applicant if the Director is satisfied of the following:
- (a) section 21S has been complied with in respect of the application;
  - (b) the intended use of the chemical does not pose an unreasonable risk to occupational health and safety, public health or the environment, having regard to the following:
    - (i) the inherent nature of the chemical;
    - (ii) any guidelines prescribed for the purposes of this section;
    - (iii) any other matters that the Director considers relevant;
  - (c) the total quantity of the chemical that is proposed to be introduced by the applicant during any 12 month period does not exceed:
    - (i) if guidelines prescribed for the purposes of this section apply to the chemical—1,000 kilograms; or
    - (ii) otherwise—100 kilograms.
- (2A) The Director must grant an application for a renewal of a low volume permit in respect of a chemical and issue the permit to the applicant if the Director is satisfied of the following:
- (a) section 21S has been complied with in respect of the application;
  - (b) the conditions referred to in subsection 21R(1A) have been met.

- (3) If the Director is not satisfied under subsection (2) or (2A), the Director must refuse the application.

### **21V Duration of permit**

A low volume permit comes into force at the beginning of such period of not more than 36 months as is stated in the permit and remains in force until the end of that period.

### **21W Permit may be subject to conditions**

- (1) A low volume permit is granted subject to a condition that, if the holder of the permit becomes aware of any of the following circumstances, namely, that since the permit was last issued:
- (a) the function or use of the chemical has changed, or is likely to change, significantly;
  - (b) the amount of the chemical being introduced under the permit in the 12 month period referred to in sub-subparagraph 21S(2)(a)(iv)(A) or in a 12 month period referred to in sub-subparagraph 21S(2)(a)(iv)(B) has exceeded, or is likely to exceed, the quantity stated in the written statement provided under subsection 21S(2) or the application for the renewal of the permit;
  - (c) in the case of a chemical not manufactured, or proposed to be manufactured, in Australia when the permit was last issued—it has begun to be manufactured in Australia;
  - (d) the method of manufacture of the chemical in Australia has changed, or is likely to change, in a way that may result in an increased risk of an adverse effect of the chemical on occupational health and safety, public health or the environment;
  - (e) additional information has become available to the holder as to an adverse effect of the chemical on occupational health and safety, public health or the environment;

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(f) a prescribed event has happened;  
the holder will, within 28 days of becoming aware, give written notice to the Director of the circumstances of which the holder has become aware.

Note: A person who holds a low volume permit must also comply with the obligations in Division 3B of this Part.

- (2) For the purposes of subsection (1), the holder of a permit is taken to have become aware of circumstances if, having regard to:
- (a) the holder's abilities, experience, qualifications and other attributes; and
  - (b) the nature of the circumstances;
- the holder ought reasonably to have become aware of the circumstances.
- (3) A low volume permit may be expressed to be granted subject to such other conditions as the Director considers necessary or desirable to ensure that use of the low volume chemical will not constitute an unreasonable risk to occupational health and safety, public health or the environment.
- (4) The Director may, by written notice given to the holder of a low volume permit:
- (a) impose one or more further conditions to which the permit is to be subject; or
  - (b) revoke or vary a condition:
    - (i) imposed under paragraph (a); or
    - (ii) stated in the permit.
- (5) A person commits an offence if:
- (a) the person is or was the holder, or any of the holders, of a low volume permit; and
  - (b) the person does an act or omits to do an act; and
  - (c) the act or omission contravenes a condition to which the permit is subject.

Penalty: 300 penalty units.

(5A) Subsection (5) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5A) (see subsection 13.3(3) of the *Criminal Code*).

- (6) The Director may, by written notice given to the holder of a low volume permit, cancel the permit if:
- (a) a condition to which the permit is subject has been contravened; or
  - (b) a written statement provided or any information given:
    - (i) in or in connection with the application for the permit or any application for a renewal of the permit; or
    - (ii) in accordance with a condition to which the permit was subject;  
was false or misleading in a material particular.

### **21X Form of permit**

A low volume permit must be in an approved form.

### **21Y Notice of permit to be published in Chemical Gazette**

As soon as practicable after a low volume permit is issued, the Director must cause to be published in the Chemical Gazette a notice stating that the permit has been issued and setting out:

- (a) the name of the holder, or holders, of the permit; and
- (b) either:
  - (i) a trade name of the chemical; or
  - (ii) the chemical name of the chemical; and
- (c) the period of the permit.

### **21Z Notice of refusal of application**

- (1) If the Director decides to refuse an application, he or she must, as soon as practicable, give to the applicant a written notice of the decision that sets out the findings on material questions of fact,

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refers to the evidence or other material on which those findings were based and gives the reasons for the decision.

- (2) If the Director does not, within 20 days after receiving an application, issue to the applicant a low volume permit or a notice under subsection (1), the Director is taken to have refused the application.

**21ZA List of low volume chemicals**

- (1) The Director must maintain a list of low volume chemicals.
- (2) At least once a year, the Director must publish the list in the Chemical Gazette.

**21ZB Exempt information**

- (1) An application for a low volume permit, or an application for a renewal of a low volume permit, may include an application that certain information given in accordance with section 21S be treated as exempt information under section 75.
- (2) The giving of information about a matter under section 21SA, or in accordance with a condition of a kind mentioned in subsection 21W(1), may be accompanied by an application in the approved form that some or all of the information be treated as exempt information under section 75.

## **Division 1C—Controlled use permit system**

### **22A Object of controlled use permit system**

The object of the controlled use permit system is:

- (a) to provide an alternative to the assessment certificate system in respect of a new industrial chemical that is a low risk to occupational health and safety, public health and the environment because its use, handling and disposal are highly controlled; and
- (b) to ensure that this alternative is subject to adequate safeguards.

### **22B Who may apply for permit or renewal of permit**

- (1) A manufacturer or importer of a new industrial chemical may apply for a controlled use permit in respect of the chemical.
- (2) A manufacturer or importer whose controlled use permit in respect of a new industrial chemical is still in force may apply for the permit to be renewed if the following conditions are met:
  - (a) the function or use of the chemical has not changed, and is not likely to change, significantly;
  - (b) the amount of the chemical being introduced has not increased, and is not likely to increase, significantly;
  - (c) in the case of a chemical that was not manufactured, or proposed to be manufactured, in Australia at the time the permit was last issued—it continues not to be manufactured in Australia;
  - (d) the method of manufacture of the chemical in Australia has not changed, and is not likely to change, in a way that may result in an increased risk of an adverse effect on occupational health and safety, public health or the environment;

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- (e) no additional information has become available to the manufacturer or importer as to any adverse effects of the chemical on occupational health and safety, public health or the environment;
  - (f) no event prescribed for the purposes of section 64 has happened;
  - (g) any conditions of the permit imposed by or under section 22H were complied with during the period of the current permit;
  - (h) no changes are required to any conditions of the permit.
- (3) A manufacturer or importer may apply for a controlled use permit to be renewed any number of times.
- (4) 2 or more persons, each of whom is a manufacturer or importer of a new industrial chemical, may make a joint application under subsection (1) or (2).
- (5) If a joint application is made, then, unless the contrary intention appears, a reference in this Division to the applicant is a reference to the joint applicants.

**22C How application is to be made**

- (1) An application for a controlled use permit, or a renewal of a controlled use permit, must:
- (a) be in writing; and
  - (b) be in an approved form; and
  - (c) be given to the Director.
- (2) An application for a controlled use permit is taken not to be duly made unless the applicant has provided a written statement about the chemical that:
- (a) states the use for which the chemical is to be introduced; and
  - (b) contains a summary of the chemical's effects on occupational health and safety, public health and the environment; and



- (c) states the quantity of the chemical proposed to be introduced by the applicant in the 12 month period beginning on the date on which the application is made; and
  - (d) states the quantity of the chemical proposed to be introduced by the applicant in each of the next two 12 month periods; and
  - (e) contains such other information as is prescribed in the regulations.
- (3) An application for a controlled use permit, or a renewal of a controlled use permit, is taken not to be duly made unless the applicant has paid the prescribed fee.

#### **22D Director may request further information about application**

- (1) The Director may give an applicant a written notice requiring the applicant to give the Director further information about a matter referred to in subsection 22C(2), or a matter referred to in the application for the renewal of the controlled use permit, within the period specified in the notice.
- (2) The notice must specify a period of at least 14 days.

#### **22E Applicant may withdraw or amend application**

An applicant may, at any time before the application has been determined, by written notice to the Director, withdraw the application or amend the application or any document that accompanied the application.

#### **22F Determination of application**

- (1) The Director must grant an application for a controlled use permit in respect of a chemical and issue the permit to the applicant if the Director is satisfied of the following:
  - (a) section 22C has been complied with in respect of the application;

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- (b) the intended use of the chemical does not pose an unreasonable risk to occupational health and safety, public health or the environment, having regard to the following:
  - (i) the inherent nature of the chemical;
  - (ii) any guidelines prescribed for the purposes of this section;
  - (iii) any other matters that the Director considers relevant.
- (2) The Director must grant an application for a renewal of a controlled use permit in respect of a chemical and issue the permit to the applicant if the Director is satisfied of the following:
  - (a) section 22C has been complied with in respect of the application;
  - (b) the conditions referred to in subsection 22B(2) have been met.
- (3) If any further information required by the Director under section 22D is not given to the Director within the period specified in the notice requiring that further information, the application is taken to have been withdrawn.
- (4) If the Director is not satisfied under subsection (1) or (2), the Director must refuse the application.

**22G Duration of permit**

A controlled use permit:

- (a) comes into force at the beginning of the period of not more than 36 months that is stated in the permit; and
- (b) remains in force until the end of that period.

**22H Permit may be subject to conditions**

- (1) A controlled use permit is granted subject to a condition that the chemical in respect of which the permit is issued is only imported or manufactured for the use stated in the permit.

Note: A person who holds a controlled use permit must also comply with the obligations in Division 3B of this Part.

- (2) A controlled use permit is granted subject to a condition that, if the holder of the permit becomes aware of any of the circumstances referred to in subsection (3) happening since the permit was last issued, the holder will, within 28 days, give written notice to the Director of the circumstances.
- (3) These are the circumstances:
- (a) the function or use of the chemical has changed, or is likely to change, significantly; or
  - (b) in the case of a chemical not manufactured, or proposed to be manufactured, in Australia when the permit was last issued—it has begun to be manufactured in Australia; or
  - (c) the method of manufacture of the chemical in Australia has changed, or is likely to change, in a way that may result in an increased risk of an adverse effect on occupational health and safety, public health or the environment; or
  - (d) additional information has become available to the holder as to an adverse effect of the chemical on occupational health and safety, public health or the environment; or
  - (e) a prescribed circumstance has happened.
- (4) For the purposes of subsection (2), the holder of a permit is taken to have become aware of circumstances if the holder ought reasonably to have become aware of the circumstances, having regard to:
- (a) the holder's abilities, experience, qualifications and other attributes; and
  - (b) the nature of the circumstances.
- (5) A controlled use permit may be expressed to be granted subject to such other conditions as the Director considers necessary or desirable to ensure that use of the chemical will not constitute an unreasonable risk to occupational health and safety, public health or the environment.
- (6) If the Director considers it necessary or desirable to ensure that use of a chemical will not constitute an unreasonable risk to occupational health and safety, public health or the environment,

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the Director may, by written notice given to the holder of a controlled use permit issued in respect of the chemical:

- (a) impose one or more further conditions to which the permit is to be subject; or
  - (b) revoke or vary a condition:
    - (i) imposed under paragraph (a); or
    - (ii) stated in the permit.
- (7) The notice under subsection (6) must specify a day on which the permit:
- (a) becomes subject to the condition imposed, or the condition as varied, under that subsection; or
  - (b) ceases to be subject to the condition revoked under that subsection.

The day must be at least 28 days after the giving of the notice.

**22I Offence for contravention of permit**

A person commits an offence if:

- (a) the person is or was the holder, or any of the holders, of a controlled use permit; and
- (b) the person does an act or omits to do an act; and
- (c) the act or omission breaches a condition to which the permit is subject.

Penalty: 300 penalty units.

**22J Cancellation of permit**

The Director may, by written notice given to the holder of a controlled use permit, cancel the permit if:

- (a) a condition to which the permit is subject has been breached; or
- (b) a written statement provided or any information given:
  - (i) in or in connection with the application for the permit or any application for a renewal of the permit; or

- (ii) in accordance with a condition to which the permit was subject;  
was false or misleading in a material particular.

### **22K Form of permit**

A controlled use permit must be in an approved form.

### **22L Notice of permit to be published in Chemical Gazette**

As soon as practicable after a controlled use permit is issued, the Director must cause to be published in the Chemical Gazette a notice stating that the permit has been issued and setting out:

- (a) the name of the holder, or holders, of the permit; and
- (b) either:
  - (i) a trade name of the chemical; or
  - (ii) the chemical name of the chemical; and
- (c) the use for which the chemical may be imported or manufactured; and
- (d) the period of the permit.

### **22M Notice of refusal of application**

If the Director decides to refuse an application, he or she must, as soon as practicable, give to the applicant a written notice of the decision that sets out:

- (a) the findings on material questions of fact; and
- (b) the evidence or other material on which those findings were based; and
- (c) the reasons for the decision.

### **22N List of controlled use chemicals**

- (1) The Director must maintain a list of the following:
  - (a) the chemicals in respect of which controlled use permits are in force;

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- (b) the conditions of use to which those permits are subject.
- (2) At least once a year, the Director must publish the list in the Chemical Gazette.

**22O Exempt information**

- (1) An application for a controlled use permit, or an application for a renewal of a controlled use permit, may include an application that certain information given in accordance with section 22D be treated as exempt information under section 75.
- (2) The giving of information about a matter under section 22D, or in accordance with a condition of a kind referred to in subsection 22H(2), may be accompanied by an application in the approved form that some or all of the information be treated as exempt information under section 75.

## **Division 2—Notification Procedures before Assessment**

### **22P Object and overview of assessment certificates**

- (1) The object of the assessment certificate system under this Division and Division 3 of this Part is to allow a new industrial chemical to be assessed before a manufacturer or importer introduces the chemical.
- (2) There are 2 main assessment systems set out in this Division and Division 3. In the self-assessed system, a manufacturer or importer of certain chemicals of low concern does most of the assessment himself or herself and the application form is adopted as the assessment report. However, the manufacturer or importer is subject to additional obligations under Division 3B of this Part.
- (3) Otherwise, an officer assesses the chemical and prepares an assessment report.

### **23 Application for a non-self-assessed assessment certificate for any chemical**

*Who may make an application for a non-self-assessed assessment certificate*

- (1) A manufacturer or importer of a new industrial chemical may apply for an assessment certificate for the chemical.
- (1A) 2 or more persons, each of whom is a manufacturer or importer of a new industrial chemical, may make a joint application.

*Requirements for the application*

- (2) The application must be in writing in the approved form and must be given to the Director.
- (3) Subject to section 24A, the application must be accompanied by a written notification statement about the chemical.

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*Notification statement for chemicals other than polymers*

- (4) A notification statement about the following new industrial chemicals must contain the matters specified in Parts A and B of the Schedule:
- (a) a new industrial chemical (other than a polymer) that is to be introduced by the applicant in a quantity of not more than one tonne in any 12 month period;
  - (b) a new industrial chemical (other than a polymer) that is to be manufactured in Australia by the applicant:
    - (i) solely for the purposes of further manufacture at the site of its manufacture; and
    - (ii) in a quantity of not more than 10 tonnes in any 12 month period.

Note: Polymers are dealt with in subsections (6), (7) and (8).

- (5) A notification statement about any other chemical (other than a polymer) must contain the matters specified in Parts A, B and C of the Schedule.

Note: Polymers are dealt with in subsections (6), (7) and (8).

*Notification statement for polymers*

- (6) A notification statement about a polymer (other than a polymer of low concern) must contain the matters specified in Parts A, B and D of the Schedule.

Note: Section 24A describes the contents of the document that needs to accompany an application in respect of a polymer of low concern.

- (7) A notification statement about the following polymers (other than one referred to in subsection (8)) must also contain the matters specified in Part C of the Schedule:
- (a) a biopolymer; and
  - (b) a synthetic polymer having a number-average molecular weight of less than 1,000.



- (8) A notification statement about the following polymers does not need to contain the matters specified in Part C of the Schedule:
- (a) a polymer that is to be introduced by the applicant in a quantity of not more than one tonne in any 12 month period;
  - (b) a polymer that is to be manufactured in Australia by or on behalf of the applicant:
    - (i) solely for the purposes of further manufacture at the site of its manufacture; and
    - (ii) in a quantity of not more than 10 tonnes in any 12 month period;
  - (c) a polymer of low concern.

*Notification statement for certain UV filters*

- (9) A notification statement about a new industrial chemical that is to be used as an ultraviolet filter in a cosmetic to be applied to the skin must contain the matters specified in:
- (a) Parts A, B, C and E of the Schedule; and
  - (b) if the chemical is a polymer—Part D of the Schedule.
- (9A) If subsection (9) applies to a chemical, subsections (4) to (8) do not apply.

*Other requirements for the application*

- (10) An application for an assessment certificate for a new industrial chemical must, in addition to the notification statement, be accompanied by a statement of any other assessment information available to the applicant.
- (11) A notification statement must be accompanied by a statement that the applicant is entitled to use and give the Director all data in the statement.
- (12) Where a notification statement contains information obtained from a test, that test shall be of a kind approved by the Director for the purpose of obtaining such information.

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- (13) For the purposes of subsection (10), information shall be taken to be available to a person if, having regard to:
- (a) the person's abilities, experience, qualifications and other attributes; and
  - (b) all the circumstances surrounding the alleged failure to give a statement of the information;
- the person ought reasonably to have been aware of the information.

**23A Application for a self-assessed assessment certificate for certain chemicals**

- (1) A manufacturer or importer of any of the following new industrial chemicals may apply for a self-assessed assessment certificate for the chemical:
- (a) a polymer of low concern;
  - (b) a non-hazardous chemical;
  - (c) any other chemical, or class of chemical, the criteria for which are prescribed by the regulations.

Note: A manufacturer or importer of any of those new industrial chemicals can still apply under section 23 for a non-self-assessed assessment certificate.

- (2) The application must be in writing in the approved form.
- (3) The application must be given to the Director, together with a statement signed by the applicant that the information provided in the form is correct.

**24 Variation of requirements of section 23**

- (1) Where:
- (a) a person wishes to apply under section 23 for an assessment certificate for a new industrial chemical; and
  - (b) the chemical is listed in a prescribed international inventory of chemicals; and

- (c) the Director is satisfied that, because of the listing, adequate information is available about particular matters that, but for this subsection, would be required to be included in the notification statement;
- the Director may waive the requirement to include those matters in the statement.
- (2) A person who wishes to apply under section 23 for an assessment certificate for a new industrial chemical may request the Director in writing to vary the requirements in relation to the notification statement by:
- (a) waiving a requirement to include particular matters in the statement; or
  - (b) waiving such a requirement and substituting another requirement.
- (3) The Director may vary the requirements in the way requested where he or she is satisfied that:
- (a) the introduction of the chemical is not against the public interest; and
  - (b) the chemical can be assessed adequately under this Act:
    - (i) where paragraph (2)(a) applies—without those matters; or
    - (ii) where paragraph (2)(b) applies—if the other requirement is substituted.
- (4) The Director must waive the requirement if he or she is satisfied that the particular matters are irrelevant, or unnecessary, for the assessment of the chemical.

#### **24A Variation of requirement for notification statement in case of polymers of low concern**

Despite section 23, the only document that needs to accompany an application under that section for an assessment certificate for a polymer of low concern is a copy of the approved form that contains a statement, signed by the applicant or each applicant, that the information provided in the form is correct.

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**25 Exempt information about new industrial chemical**

An application under section 23 or 23A for an assessment certificate for a new industrial chemical may include an application that certain information given in the notification statement or approved form about the chemical be treated as exempt information under section 75.

**26 Withdrawal of application**

- (1) An applicant under section 23 or 23A for an assessment certificate for a chemical may withdraw the application by written notice given to the Director at any time before the publication of the assessment report about the chemical.
- (2) Where the applicant withdraws the application and requests the Director in writing to return to the applicant the application and all documents given to the Director by the applicant in connection with the application, the Director must comply with the request.
- (3) Where an officer has information, and has it only because it was given by the applicant in connection with the withdrawn application, the officer must not make a record of, or disclose, any of the information except:
  - (a) in the course of carrying out functions and duties under this Act; or
  - (b) by order of a court; or
  - (c) with the consent of the applicant.

**27 Director may require further information**

- (1) Where:
  - (a) an application for an assessment certificate has been made under section 23 or 23A; and
  - (b) either:
    - (i) the notification statement accompanying the application does not contain sufficient information about a matter required under section 23; or

- (ii) the applicant has not included sufficient information about a matter referred to in the approved form under section 23A or 24A;

the Director may give the applicant written notice requiring the applicant to give more information about the matter to the Director.

- (2) Where:

- (a) an application for an assessment certificate for a new industrial chemical has been made under section 23; and  
(b) the Director considers that information additional to the matters required under section 23 is necessary for the purpose of assessing the chemical and can be given by the applicant;

the Director may, at any time before the assessment report on the chemical is completed, give the applicant written notice specifying the information and requiring the applicant to give the information to the Director.

- (3) A notice under this section must specify a period of not less than 28 days for compliance.
- (4) If an applicant satisfies the Director that the applicant cannot give some or all of the information required by a notice under subsection (2), the applicant is, for the purposes of subsection 31A(1), to be taken to have complied with the notice so far as it relates to that information.

## **28 Applicants to give further information**

- (1) Where, after an application for an assessment certificate for a new industrial chemical has been made under section 23 or 23A and before the application is finalised, the applicant becomes aware of additional assessment information, the applicant must give the information to the Director in writing as soon as practicable.
- (2) Where an applicant fails to comply with subsection (1), the Director may suspend the consideration of the application until the applicant complies.

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- (3) For the purposes of subsection (1), a person shall be taken to have become aware of information if, having regard to:
- (a) the person's abilities, experience, qualifications and other attributes; and
  - (b) all the circumstances surrounding the alleged failure to give the information;
- the person ought reasonably to have become aware of the information.

**29 Further exempt information**

The giving of information about a chemical under section 27 or 28 may be accompanied by an application in the approved form that some or all of the information be treated as exempt information under section 75.

**30 Permits allowing introduction before assessment**

- (1) A person who has applied under section 23 for an assessment certificate for a chemical may apply to the Minister for a permit authorising the importation or manufacture, as the case may be, of the chemical before the assessment certificate is given to the applicant on the ground that:
- (a) it is in the public interest that the chemical be imported or manufactured by the applicant without delay; and
  - (b) the importation or manufacture, or the importation or manufacture subject to conditions under subsection (5), is consistent with the reasonable protection of occupational health and safety, public health and the environment.
- (1A) An application must be accompanied by the fee prescribed under section 110 in respect of the application.
- (1B) After consideration of an application for a permit duly made under subsection (1), the Minister must, by notice in writing given to the applicant:

- (a) if he or she is satisfied that the grounds of the application are established in relation to the industrial chemical concerned—grant the permit so applied for; and
  - (b) if he or she is not so satisfied—refuse to grant the permit and specify in the notice the reasons for so refusing.
- (1C) If an application for an assessment certificate for an industrial chemical is a joint one:
- (a) the applicants for that assessment certificate may make joint application for a permit under subsection (1); and
  - (b) the Minister must, by notice given to each applicant for the permit, grant or refuse the permit.
- (2) The Minister is to cause notice of the grant of the permit to be published in the Chemical Gazette as soon as is practicable.
- (3) Unless the Minister is satisfied that it is in the public interest to withhold publication of any of the following information, the Chemical Gazette notice must contain:
- (a) the name of the applicant;
  - (b) the name or names by which the chemical is known to the public or is intended by its importer or manufacturer to be so known;
  - (c) the period for which the permit is to remain in force;
  - (d) any prescribed particulars.
- (4) Where:
- (a) the applicant requested the Minister to withhold the publication of information; but
  - (b) the Minister decides to publish the information;
- then the Minister is to:
- (c) give written notice of the decision to the applicant; and
  - (d) delay the publication for 28 days after giving the notice or, where the applicant applies during those days to the Tribunal under section 102 for the review of the decision, until the application is finalised.

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- (5) The permit is subject to such conditions as are specified in the permit.
- (6) The Minister is not to specify a condition referred to in subsection (5) unless the condition is reasonably necessary for the protection of occupational health and safety, public health or the environment.
- (7) A permit in relation to a chemical ceases to be in force if the application by the holder of the permit for an assessment certificate for the chemical is withdrawn under section 26.

**30A Application for early introduction of non-hazardous chemicals**

*Application*

- (1) A person who has applied under section 23 or 23A for an assessment certificate for a chemical of a kind mentioned in subsection (1A) may apply to the Director for a permit to introduce the chemical before the assessment report is completed.
- (1A) An application may be made under subsection (1) in respect of the following chemicals:
  - (a) a polymer of low concern;
  - (b) a non-hazardous chemical;
  - (c) any other chemical, or class of chemical, the criteria for which are prescribed by the regulations.
- (2) The application must:
  - (a) be in the approved form; and
  - (b) have with it the prescribed fee.

*Grant of permit*

- (3) The Director may grant the permit if he or she is satisfied that:
  - (a) the chemical is a chemical of a kind mentioned in subsection (1A); and



- (b) in respect of a polymer of low concern:
  - (i) carbon or silicon is the polymer's largest component;  
and
  - (ii) the introduction of the polymer is consistent with the reasonable protection of occupational health and safety, public health and the environment; and
  - (iii) any other conditions prescribed by the regulations have been met.
  
- (4) The Director must take account of the following matters in deciding whether he or she is satisfied that the introduction of a polymer of low concern is consistent with the reasonable protection of occupational health and safety, public health and the environment:
  - (a) the proposed nature of the use of the polymer;
  - (b) the extent of the proposed use of the polymer;
  - (c) the effect of the polymer on the environment;
  - (d) the effect of the polymer on occupational health and safety and public health;
  - (e) the structure and activity of the polymer;
  - (f) whether, in Australia or overseas, the polymer is the subject of:
    - (i) investigations initiated by a person because of concerns about a possible adverse effect on occupational health and safety, public health or the environment; or
    - (ii) action taken by a person to control the use of, or access to, the polymer;
  - (g) any other matter prescribed by the regulations.

*Period for determining application*

- (5) The Director must decide the application within 28 days of receiving it.

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*Request for further information*

- (6) If, on the material in the application, the Director is not able to determine whether the chemical is a chemical of a kind mentioned in subsection (1A), he or she may in writing:
- (a) ask the applicant for further information on whether the chemical is a chemical of a kind mentioned in subsection (1A); and
  - (b) state a period within which the information is to be given to the Director.
- (7) If the Director asks for further information, the period starting on the date of the request and ending when the further information is received is not to be taken into account in determining the period of 28 days mentioned in subsection (5).
- (8) If the further information is not given to the Director within the period mentioned in paragraph (6)(b), the application is taken to have been withdrawn.

*Joint application*

- (9) If the application for an assessment certificate is a joint application, the Director may grant a permit to any one or more of the applicants applying under this section.

*Conditions*

- (10) If the Director decides to grant a permit, the permit is subject to such conditions as are specified in the permit.

*Notice*

- (11) As soon as practicable after a permit is issued, the Director must cause to be published in the Chemical Gazette a notice stating that the permit has been issued and setting out:
- (a) the name of the holder, or holders, of the permit; and
  - (b) either:
    - (i) a trade name of the chemical; or

- (ii) the chemical name of the chemical.

### **30AA Dual applications for introduction permits**

- (1) This section applies to a chemical if a person makes an application to the Director under section 30A in respect of the chemical and, either before or after that time, or at the same time, makes an application to the Minister under section 30 in respect of the chemical.
- (2) If this section applies to a chemical, any consideration, or if it has already commenced, any further consideration, of an application under section 30 in respect of the chemical is deferred until the Director decides whether or not to grant the application under section 30A in respect of the chemical.
- (3) If the Director decides to grant the application under section 30A in respect of a chemical, the application under section 30 in respect of the chemical is taken to have been withdrawn when the Director notifies the applicant of the decision.
- (4) If the Director decides not to grant the application under section 30A in respect of a chemical, the Minister must consider, or resume consideration of, the application under section 30 as soon as practicable after the Director notifies the applicant of the decision.

### **30B Exempt information about early introduction**

An application under section 30A may have with it an application in the approved form that some or all of the information be treated as exempt information.

### **30C Revocation of permit**

- (1) If:
  - (a) the Director grants a permit under section 30A; and

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- (b) he or she becomes aware of further information relating to whether the chemical is a chemical of a kind mentioned in subsection 30A(1A);  
the Director must reconsider the decision to grant the permit and either confirm or revoke it.
- (2) If, following the reconsideration of the initial decision, the Director decides to confirm the grant of the permit, he or she must also confirm any conditions to which the permit was subject or vary those conditions.
- (3) If, following the reconsideration of the initial decision, the Director decides to revoke the permit:
- (a) he or she must notify the applicant of the revocation as soon as possible; and
  - (b) the applicant must stop introducing the chemical as soon as the applicant receives the notice.
- (4) A person must not contravene paragraph (3)(b).

Penalty: 300 penalty units.

## **Division 3—Assessment, self-assessment and reports**

### **31 Assessment of chemical**

- (1) Where:
- (a) an application for an assessment certificate for a new industrial chemical has been made under section 23 or 23A; and
  - (b) the information required by any notice in force under section 27 in relation to the application has been given;
- the Director must cause the chemical to be assessed in accordance with section 32 or 33A and a report of the assessment to be prepared.

Note: The report of the assessment for polymers of low concern and other chemicals referred to in section 23A might be the application form under that section (see sections 33A and 33B).

#### **31A Time periods for applications for non-self-assessed assessment certificates under section 23**

*Time periods for applications for non-self-assessed assessment certificates under section 23*

- (1) An assessment of an application under section 23 is to be made and the assessment report and the public report completed within:
- (a) if a notice or notices requiring additional information were given under section 27—90 days after the day on which the information was provided; and
  - (b) otherwise—90 days after the day on which the application was made.

Note: The Minister may extend the 90 day period under subsection (3).

*Time periods to exclude time taken to provide requested information*

- (2) If:

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- (a) the applicant for the assessment certificate also applies under section 30A for a permit to introduce the chemical before the assessment report is complete; and
- (b) the Director requests further information to be given by the applicant under subsection 30A(6);

then, the period starting on the date of that request and ending when the further information is received is not to be taken into account in determining the period of 90 days referred to in subsection (1).

*Minister may extend time period*

- (3) If it is not reasonably practicable for the assessment to be carried out thoroughly, and the reports completed, within the period, the Minister may extend the period by up to 90 days.
- (4) The Minister must immediately notify the applicant of any extension under subsection (3).

**31B Time periods for applications for self-assessed assessment certificates under section 23A**

*Time periods for applications for self-assessed assessment certificates under section 23A*

- (1) An assessment of an application under section 23A is to be made and either:
  - (a) the assessment report and the public report completed; or
  - (b) a notice given under subsection 33C(2);within:
  - (c) if a notice or notices requiring additional information were given under section 27—28 days after the day on which the information was provided; and
  - (d) otherwise—28 days after the day on which the application was made.

Note: The Minister may extend the 28 day period under subsection (3).

*Time periods to exclude time taken to provide requested information*

- (2) If:
- (a) the applicant for the assessment certificate also applies under section 30A for a permit to introduce the chemical before the assessment report is complete; and
  - (b) the Director requests further information to be given by the applicant under subsection 30A(6);
- then, the period starting on the date of that request and ending when the further information is received is not to be taken into account in determining the period of 28 days referred to in subsection (1).

*Minister may extend time period*

- (3) If it is not reasonably practicable for subsection (1) to be complied with within the period, the Minister may extend the period by up to 28 days.
- (4) The Minister must immediately notify the applicant of any extension under subsection (3).

*Deemed refusal of application for self-assessed assessment certificate*

- (5) An application for a self-assessed assessment certificate is taken to have been refused if subsection (1) is not complied with within the period required by this section.

### **32 Nature of non-self-assessed assessment**

- (1) Where an assessment of an application under section 23 for an industrial chemical is being made the officer preparing the report must determine the risk (if any) of adverse health effects, safety effects or adverse environmental effects that could be caused by:
- (a) where it is proposed to import the chemical—the importation; or

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- (b) where it is proposed to manufacture the chemical in Australia—the manufacture; or
  - (c) the use, storage, handling or disposal; of the chemical.
- (2) For the purpose of making a determination under subsection (1) in relation to an industrial chemical, account is to be taken of each of the following matters:
- (a) the properties of the chemical;
  - (b) any use to which the chemical is intended to be, or is reasonably likely to be, put;
  - (ba) any adverse effects on the environment or persons that the chemical has the intrinsic capacity to cause;
  - (bb) the extent to which the environment, persons in a particular occupation or the public will be exposed to the chemical;
  - (c) any risk to the health or safety of persons who because of their occupation are engaged, or likely to be engaged, in the manufacture, handling, storage, use or disposal of the chemical;
  - (d) any risk to the health or safety of likely consumers handling or using the chemical or any product containing the chemical;
  - (e) any risk to the environment arising from the use of the chemical or from the discharge of waste products resulting from the manufacture or use of the chemical;
  - (f) the extent to which any risk referred to in this subsection is capable of being reduced by compliance with:
    - (i) appropriate procedures relating to the manufacture, handling, storage, use or disposal of the chemical;
    - (ii) special requirements in the packaging or labelling of the chemical;
    - (iii) procedures relating to the control of, or the discharge into the environment of, the chemical or waste products resulting from the manufacture or use of the chemical;
  - (g) any other relevant information available to the Director.



### **33 Contents of non-self-assessed assessment report**

An assessment report (other than an assessment report referred to in section 33B (self-assessment)) must include a Safety Data Sheet, a summary of health, safety and environmental matters considered in the assessment and such recommendations as may reasonably be made in relation to each of the following matters:

- (a) the precautions and restrictions to be observed during the importation, manufacture, handling, storage, use or disposal of the chemical to protect persons exposed to the chemical;
- (b) controls to limit emissions of the chemical into the environment, including permissible concentrations in emissions of the chemical into the air or water from a manufacturing plant or other facility;
- (c) the packaging, labelling, handling or storage of the chemical;
- (d) the measures to be employed in emergencies involving the chemical to minimise hazard to persons and damage to the environment;
- (e) the uses of the chemical;
- (f) the means of disposal of the chemical;
- (g) the circumstances (if any) in which secondary notification of the chemical is required;
- (h) any prescribed matter.

#### **33A Nature of self-assessed assessment**

An officer assessing an application under section 23A for an industrial chemical must:

- (a) determine whether the chemical is a chemical of a kind referred to in subsection 23A(1); and
- (b) determine the risk (if any) of the adverse effects referred to in section 32.

#### **33B Contents of self-assessed assessment report**

- (1) If the officer determines:

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- (a) that the chemical is a chemical of a kind referred to in subsection 23A(1); and
  - (b) that there is no possibility of an unreasonable risk of any of the adverse effects referred to in section 32 occurring;
- then the officer must adopt the application made under section 23A for the chemical as the assessment report under section 31.
- (2) However, the officer may include in the assessment report additional information or recommendations in respect of the chemical.

Note: For example, the officer may adopt the application as the assessment report but also recommend in the report the secondary notification of the chemical in particular circumstances.

**33C Moving from the self-assessed system to the non-self-assessed system**

*Persons can be moved from the self-assessed to the non-self-assessed system*

- (1) If the officer determines:
- (a) that the chemical is not a chemical of a kind referred to in subsection 23A(1); or
  - (b) that there is a possibility of an unreasonable risk of one or more of the adverse effects referred to in section 32 occurring;
- then the officer must refuse the application for a self-assessed assessment certificate.

*Notification of refusal of application*

- (2) If the officer refuses the application, he or she must give to the applicant a written notice of the decision, as soon as practicable, that sets out:
- (a) the findings on material questions of fact; and
  - (b) the evidence or other material on which those findings were based; and
  - (c) the reasons for the decision.

*Person may make a new application under section 23*

- (3) After a person's application for a self-assessed assessment certificate has been refused then the person may make a new application in respect of the chemical under section 23.

*Person must pay additional application fee*

- (4) If the person makes such an application under section 23 in respect of a chemical, then the person must pay any difference between the amount prescribed under section 110 for applications under section 23 and the amount already paid for the application previously made under section 23A in respect of the chemical.

### **34 Public report of assessment**

On completing an assessment report about a chemical, the Director must cause a public report of the assessment to be prepared consisting of the contents of the assessment report other than exempt information.

### **36 Notice to applicant on completing report**

*Notice after completing non-self-assessed assessment report*

- (1) As soon as is reasonably practicable after completing:
- (a) an assessment report (other than an assessment report referred to in section 33B (self-assessment)) about a chemical; and
  - (b) the public report about the chemical;
- the Director must give the applicant for the assessment certificate:
- (d) a copy of the reports; and
  - (e) a notice setting out the terms of sections 37 and 38.

*Notice after completing self-assessed assessment report*

- (2) As soon as is reasonably practicable after completing:

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- (a) an assessment report referred to in section 33B (self-assessment) about a chemical; and
  - (b) the public report about the chemical;
- the Director must give the applicant for the assessment certificate:
- (d) a copy of the reports; and
  - (e) a notice setting out the terms of section 38.

Note: The Director must also give the applicant the self-assessed assessment certificate (see subsection 39(1A)).

**37 Application for variation of assessment report**

- (1) When an assessment report is given under subsection 36(1) to the applicant for an assessment certificate, the applicant may apply in the approved form to the Director, within 14 days of the giving of the report, for the variation of the report.
- (2) The Director must consider the application for variation within 14 days of receiving it, and:
  - (a) where satisfied that the report varied as requested would be correct:
    - (i) vary the report as requested; and
    - (ii) make any consequential variation of the public report; and
    - (iii) notify the applicant of the variation; or
  - (b) where not satisfied that the report varied as requested would be correct—give the applicant written notice of the decision to refuse.

**38 Publication of report**

- (1) Where, after the Director has complied with section 36 in relation to an assessment report about a chemical, the applicant for the assessment certificate for the chemical gives the Director written consent to the publication of the report, the Director must publish the report.

- (2) Subject to subsections (3) and (4), the Director must publish an assessment report about a chemical at the end of 28 days after his or her compliance with section 36 in relation to the report.
- (3) The Director must not publish an assessment report under subsection (2):
  - (a) until he or she has made a decision about any application under section 25 or 37 in relation to the report; and
  - (b) for 28 days after giving notice of any refusal of such an application; and
  - (c) until any application during those days to the Tribunal under section 102 for the review of such a decision has been finalised.
- (4) The Director must not publish an assessment report about a chemical after the application for the assessment certificate for the chemical has been withdrawn.
- (5) The Director is to publish the assessment report by:
  - (a) subject to subsection (6), giving a copy of it to prescribed authorities of the Commonwealth, the States and the Territories; and
  - (b) giving a copy of the public report about the chemical to any person that the Minister directs; and
  - (c) publishing the public report about the chemical on the website maintained for the National Industrial Chemicals Notification and Assessment Scheme by the Department; and
  - (d) publishing a notice in the Chemical Gazette stating that the public report is available as mentioned in paragraph (c).
- (6) The Director must not give a copy of the assessment report to an authority for the Commonwealth, a State or a Territory unless arrangements are in place under which the authority is not to disclose any exempt information in the report except:
  - (a) in the course of carrying out functions and duties under a law of the Commonwealth, the State or the Territory relating to industrial chemicals; or
  - (b) by order of a court; or

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- (c) with the consent of the person who gave the exempt information.
- (7) The Director may publish the public report in such other ways as the Director considers appropriate.

**39 Giving of assessment certificates**

- (1A) If an applicant is given a notice under subsection 36(2) (self-assessment), the Director must give the applicant a certificate at the same time containing such information as is prescribed by the regulations.

Note: A person who holds a self-assessed assessment certificate must comply with the obligations in Division 3B of this Part.

- (1) Otherwise, within 7 days after paragraph 38(5)(a) is complied with in relation to an application for an assessment certificate for a chemical, the Director must give the applicant a certificate containing such information as is prescribed by the regulations.
- (2) If the application is a joint application, each applicant must be given a separate certificate.
- (3) If the Director gives an applicant a certificate in respect of a chemical, the Director must also notify the applicant in writing that the applicant may apply to have the chemical included in the non-confidential section of the Inventory under section 13B.

**40 Application for variation of public report**

- (1) If a public report about an industrial chemical has been published under section 38, a person may apply in the approved form to the Director for variation of the public report. The application must be made within 28 days after publication.
- (2) Where, at the end of the 28 days, the Director has received an application or applications for the variation of the report, he or she must:
  - (a) publish in the Chemical Gazette a notice setting out:

- (i) each proposed variation; and
    - (ii) the terms of subsections (4), (5), (6) and (7); and
  - (b) give a copy of the notice to the applicant for the assessment certificate for the chemical; and
  - (c) delay varying the report for 28 days after the publication of the notice.
- (3) Within 28 days after the publication of the notice, an applicant may give the Director a written statement setting out further matters in support of the application.
- (4) Within 28 days after the publication of the notice, a person may give the Director a written statement setting out reasons why a proposed variation should not be made.
- (5) The Director must, in considering the application for the variation, have regard to any statement received about it under subsection (3) or (4).
- (6) The Director must:
- (a) where satisfied that the report varied as requested would be correct—vary the report as requested; or
  - (b) where not satisfied that the report as varied would be correct—refuse the application for variation.
- (7) When the Director makes a decision about the variation, he or she must:
- (a) publish a notice of the decision in the Chemical Gazette; and
  - (b) give a copy of the notice to:
    - (i) the applicant for the assessment certificate for the chemical; and
    - (ii) each person who made an application for a variation of the report; and
    - (iii) each person who gave a statement under subsection (4); and

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- (c) where the decision is to vary the report—delay doing so for 28 days after publishing the notice, or, where a person applies during those days to the Tribunal under section 102 for the review of the decision, until the application for review is finalised.
- (8) If a public report about a chemical is varied, the Director must make any consequential variations to the assessment report about the chemical.



## **Division 3A—Extension of original assessment certificates**

### **40A Application for extension of original assessment certificate to cover other importers or manufacturers**

- (1) If an assessment certificate (the *original certificate*) has been given for an industrial chemical, an importer or manufacturer of the chemical who does not hold the original certificate may apply for extension of the original certificate for the chemical to cover that importer or manufacturer.
- (1A) However, an importer or manufacturer may not apply for extension of a self-assessed assessment certificate.
- (2) 2 or more persons may make a joint application for extension of an original certificate if each of them is a manufacturer or importer of the chemical.
- (3) If the application relates to any chemical, other than a polymer of low concern, it must be accompanied by a statement of the matters set out in clauses 1, 2, 3, 5, 11 and 12 of Part B of the Schedule.
- (4) If the application relates to a polymer of low concern, it must be accompanied by a copy of the form approved for the purposes of section 24A signed by the applicant or each applicant to indicate that the information in the form is correct.
- (5) An application in relation to any chemical must also be accompanied by:
  - (a) a supplementary information statement in writing containing:
    - (i) if there has been a significant variation in matters affecting occupational, environmental or public exposure as set out in the notification statement that accompanied the application for the original certificate or as set out in any additional information given under section 27 or 28 in respect of the application for the original certificate—details of the variation; and

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- (ii) any new information available to the applicant about the health and environmental effects of the chemical; and
  - (iii) confirmation that the person has access to a copy of the public report about the chemical; and
  - (b) the written agreement of the holder of the original certificate to the extension of the certificate to cover the applicant or each applicant; and
  - (c) a statement that the applicant or each applicant is entitled to use and give the Director all the data in the statement; and
  - (d) the prescribed fee.
- (6) For the purposes of subparagraph (5)(a)(ii), information is taken to be available to the applicant if the applicant ought reasonably to have been aware of the information having regard to the applicant's abilities, experience, qualifications and other attributes.

**40B Requests for additional information**

- (1) If the supplementary information statement does not contain sufficient information about a matter required under section 40A, the Director may give the applicant written notice asking the applicant to give more information about the matter to the Director within 28 days.
- (2) The Director may give the applicant written notice asking the applicant to give the Director specified information additional to the matters required under section 40A within 28 days, if the Director considers that:
  - (a) the information is needed to deal with the application; and
  - (b) the applicant can give the information.

**40C Applicants to give further information**

- (1) If an applicant for an extension of an original assessment certificate becomes aware of additional information relevant to the application before the certificate is given, the applicant must give the information to the Director as soon as possible.

- (2) A person is taken to become aware of information if the person ought reasonably to have become aware of the information, having regard to the person's abilities, experience, qualifications and other attributes.

#### **40D Exempt information**

- (1) An application for an extension of an original assessment certificate may include an application that specified information in the supplementary information statement be treated as exempt under section 75.
- (2) When giving information under section 40B or 40C, an applicant for extension may apply for the information to be treated as exempt under section 75.

#### **40E Director to prepare modifications of original assessment report**

- (1) Subject to subsection (2), the Director must, having regard to:
  - (a) the application for extension of the original assessment certificate; and
  - (b) if further information has been given either as a result of a notice under section 40B or in compliance with subsection 40C(1)—that further information;prepare modifications of the original assessment report.
- (2) The modifications of the original assessment report are to be made within 45 days after:
  - (a) the day on which application for extension was made; or
  - (b) if information was required by a notice or notices under section 40B—the day on which the information required by the notice or notices was given.
- (3) As soon as is reasonably practicable after preparing the modifications of the original assessment report, the Director must give to the holder of the original assessment certificate and the applicant for extension:
  - (a) a copy of the modifications; and

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- (b) a notice setting out the terms of sections 40F and 40G.
- (4) A copy of the modifications given under subsection (3) to the holder of the original assessment certificate must not contain exempt information.

**40F Variation of additional information**

- (1) The holder of the original assessment certificate or the applicant for extension may apply to the Director for variation of the modifications.
- (2) The application for variation of the modifications must be made:
  - (a) within 14 days of the giving of the modifications; and
  - (b) in the approved form.
- (3) The Director must consider the application for variation within 14 days of receiving it and:
  - (a) if satisfied that the modifications varied as requested would be correct—vary the modifications as requested and inform the applicant of the variations; or
  - (b) if not satisfied that the modifications varied as requested would be correct—refuse the application for variations and give the applicant written notice of the decision to refuse to make the variations.

**40G Publication of modifications**

- (1) At the end of 28 days after giving the applicant for extension the modifications and the notice under section 40E, the Director must publish the modifications, or the modifications as varied under that section:
  - (a) by preparing and giving a copy of the original assessment report, incorporating the modifications, or the modifications as so varied, to:
    - (i) the prescribed authorities of the Commonwealth, the States and the Territories; and
    - (ii) any person that the Minister directs; and

- (b) by incorporating, to the extent required, the modifications or modification as so varied, in the public report; and
  - (c) by publishing the public report on the website maintained for the National Industrial Chemicals Notification and Assessment Scheme by the Department; and
  - (d) by publishing a notice in the Chemical Gazette stating that the public report is available as mentioned in paragraph (c).
- (2) Despite subsection (1), the Director must not publish the modifications until:
- (a) the applicant has consented in writing to the publication; and
  - (b) the Director has made a decision about any application to vary the modifications; and
  - (c) if the Director refuses an application to vary the modifications—28 days after the Director gave notice of refusal of the application; and
  - (d) if the Director refuses an application to vary the modifications and the applicant applies to the Tribunal under section 102 for review of the decision—the application for review has been finalised.
- (3) Despite subsection (1), the Director must not publish the information after the application has been withdrawn.
- (4) A copy of the original assessment report or the public report published under subsection (1) (other than under subparagraph (1)(a)(i)) must not contain any exempt information.

#### **40H Extensions of original assessment certificate**

- (1) The Director must, as soon as possible and in any case, within 7 days after publishing the modifications in the Chemical Gazette under section 40G, give the applicant or each applicant an assessment certificate endorsed to indicate that it is an extension of the original assessment certificate.
- (2) The certificate must contain the prescribed information.

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**Division 3A** Extension of original assessment certificates

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- (3) The certificate ceases to be in force when the chemical to which it relates is included in the Inventory under section 14.
- (4) However, if the importation or manufacture of the chemical is subject to a condition of use included in the Inventory under section 13, then the certificate only ceases to be in force to the extent that it relates to that condition of use.

**40J Withdrawal of application**

The applicant for an extension of the original assessment certificate may withdraw the application by written notice given to the Director at any time before the Director gives the certificate.

## **Division 3B—Obligations relating to certain permits and self-assessed assessment certificates**

### **40K Record keeping requirements**

- (1) A person who is issued:
  - (a) a low volume permit; or
  - (b) a controlled use permit; or
  - (c) a self-assessed assessment certificate;must keep records to support any statement made in or in connection with the application for the permit or certificate, or any application for a renewal of the permit.
- (2) The records must be kept for 5 years from the date the permit or certificate is issued.
- (3) A person commits an offence if:
  - (a) the person is required to keep records under subsection (1) or (2); and
  - (b) the person fails to do so.

Penalty: 120 penalty units.

### **40L Director may obtain information and documents**

#### *Making of request*

- (1) If the Director believes on reasonable grounds that a person who is issued:
  - (a) a low volume permit; or
  - (b) a controlled use permit; or
  - (c) a self-assessed assessment certificate;has particular information or a particular document that is relevant to any statement made in or in connection with the application for the permit or certificate, or any application for a renewal of the

**Part 3** Notification and Assessment of Industrial Chemicals

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permit, the Director may request the person to give the information, or produce the document, to the Director.

*Form of request*

- (2) A request given to a person under subsection (1) must:
- (a) be made in writing; and
  - (b) state what information the person must give, or what document the person must produce, to the Director; and
  - (c) specify the day on or before which the person must give the information or produce the document (which must be a day at least 14 days after the day on which the Director makes the request); and
  - (d) specify how the person is to give the information, or produce the document, to the Director; and
  - (e) contain a statement to the effect that a failure to comply with the request is an offence.

*Offence*

- (3) A person commits an offence if:
- (a) the person is required to give information or produce a document under subsection (1); and
  - (b) the person fails to give the information or produce the document.

Penalty: 60 penalty units.

**40M Self-incrimination**

- (1) An individual is not excused from giving information or producing a document under section 40L on the ground that the information or the production of the document might tend to incriminate the individual or expose the individual to a penalty.
  - (2) However:
    - (a) the information given or the document produced; or
    - (b) giving the information or producing the document; or
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- (c) any information, document or thing obtained as a direct or indirect consequence of giving the information or producing the document;

is not admissible in evidence against the individual in criminal proceedings other than:

- (d) proceedings for an offence against subsection 40L(3); or
- (e) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Act.

## Division 4—Effect of Other Notification Schemes

### 41 Approved State and Territory notification procedures

(1) In this section:

*notifiable industrial chemical* means a new industrial chemical manufactured in Australia.

(2) If the Minister is satisfied that:

- (a) a notification law is in force in a State or Territory; and
- (b) the requirements of the notification law as to the statement of matters to be given are not less than those under section 23; and
- (c) arrangements are in place providing that, where an authority of a State or Territory receives a statement of matters about a notifiable industrial chemical under its notification law, the authority will send a copy of the statement to the Director as soon as practicable;

the Minister may, by notice in the Chemical Gazette, declare that the State or Territory has a notification law that is sufficient for the purposes of this Act.

(3) Where:

- (a) a declaration under subsection (2) is in force in relation to a State or Territory; and
- (b) a manufacturer of a notifiable industrial chemical has given a statement of matters about the chemical to the appropriate authority of the State or Territory for the purposes of the notification law of that State or Territory; and
- (c) the authority gives to the Director a copy of the written statement, and certifies to the Director that the statement satisfies the requirements of the notification law of the State or Territory in relation to that chemical; and

- (d) the manufacturer applies under section 23 for an assessment certificate for the chemical;  
the statement is to be taken to be the notification statement.
- (4) If, at any time after making a declaration under subsection (1), the Minister ceases to be satisfied of the matters referred to in that subsection in relation to the relevant State or Territory, the Minister is to revoke the declaration by notice in the Chemical Gazette.

#### **42 Exempt information given under section 41**

A manufacturer of a new industrial chemical about which a statement of matters has been given to the Director under subsection 41(3), may, before the assessment of the chemical under this Act has begun, make an application in the approved form that some of the information in the statement be treated as exempt information under section 75.

#### **43 Approved foreign scheme**

- (1) In this section:
- foreign scheme* means a chemicals notification and assessment scheme operating in a foreign country.
- (2) The Minister may, by notice published in the Chemical Gazette, approve a specified foreign scheme for the purposes of this Act.
- (3) An importer or a manufacturer of a new industrial chemical may, by notice to the Minister in the approved form, nominate a foreign scheme for approval by the Minister.
- (4) The Minister may approve a foreign scheme in relation to all industrial chemicals or in relation to industrial chemicals specified in the notice of approval.
- (4A) The Minister may, in the notice of approval, state that a report of a specified kind that is made under the foreign scheme is to be the

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approved report in relation to the chemical for the purposes of paragraph 44(1)(b).

- (5) The Minister is not to approve a foreign scheme in relation to a chemical unless satisfied that notifications and assessments under it relating to the chemical are of a standard equivalent to, or higher than, those under this Act.
- (6) If, at any time after approving a scheme under subsection (2), the Minister ceases to be satisfied of the matters referred to in subsection (5), the Minister is to revoke the approval by notice in the Chemical Gazette.

**44 Chemical notified and assessed under approved foreign scheme**

- (1) Where a person who wishes to make an application under section 23 for an assessment certificate for a new industrial chemical that has been notified and assessed under an approved foreign scheme gives to the Director:
  - (a) a copy of all the particulars about the chemical that were given under the scheme and are available to the person; and
  - (b) a copy of a report of the assessment of the chemical under the scheme that is the approved report for the chemical under subsection 43(4A); and
  - (c) any other information about the chemical available to the applicant that is assessment information or was given under another approved foreign scheme; and
  - (d) documents that satisfy the Director that, in comparison with the chemical as assessed under the scheme:
    - (i) the proposed use of the chemical in Australia is not significantly different; and
    - (ii) the amount of the chemical to be introduced is not significantly greater; and
    - (iii) no variation is proposed in the method of manufacture, use or disposal of the chemical that could increase the risk of adverse health effects or adverse environmental effects;

then, subject to subsection (2), the Director is to be taken to have received from the person an application for an assessment certificate for the chemical in accordance with section 23 and the documents given under paragraph (b) are to be taken to be the notification statement.

- (2) Where the Director is taken to have received an application because of subsection (1), the Director:
  - (a) is not to require further information to be given under section 27 in relation to the application, other than information relating to matters referred to in paragraph (1)(d) or information to clarify information given; and
  - (b) must adopt the report made under the scheme unless he or she considers it inappropriate to do so because of information, or the limited extent of the information, made available under paragraph (1)(a), (b) or (c) or section 27.
- (3) Where a report is adopted, the Director is to be taken to have carried out his or her duties and functions under sections 31 and 32 and the assessment report may be prepared on the basis of the adopted report.
- (4) Subject to subsection (5), the assessment report and the public report are to be completed within 90 days after the day on which the application was made or, where a notice or notices were given under section 27, within 90 days after the day on which the information required by the notice or notices was given.
- (5) The Minister may extend the period for the completion of reports by up to 90 days if it is not reasonably practicable for the reports to be completed within the period.
- (6) Where the Minister extends the period for the completion of reports, the Minister is to notify the applicant of the extension immediately.

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**45 Exempt information given under section 44**

A person who has given particulars about a new industrial chemical to the Director under paragraph 44(1)(a) or (c) may, before the assessment report of the chemical is prepared under subsection 44(3), make an application in the approved form that some of the particulars referred to in that paragraph be treated as exempt information under section 75.

**46 Interim Notification Scheme**

(1) Where:

- (a) before the commencement of this section, an importer or manufacturer of a new industrial chemical had notified the chemical under the scheme known as the Interim Notification Scheme; and
- (b) the chemical has been assessed under that scheme, whether before or after the commencement of this section;

then:

- (c) for the purposes of section 39:
    - (i) the applicant is to be taken to have complied with the requirements of this Act regarding the notification of the chemical; and
    - (ii) the chemical is to be taken to have been assessed under this section; and
  - (d) the Director must give the applicant an assessment certificate for the chemical.
- (2) The assessment certificate is not to contain any matter that was given in confidence for the purposes of the notification and assessment.
- (3) Where a person who notified a chemical under the scheme introduces the chemical before receiving the assessment certificate for it, the person does not commit an offence under subsection 21(1) because of the introduction.

## **Division 5—Priority Existing Chemicals**

### **Subdivision A—Application**

#### **47 Application of Division**

This Division does not apply in relation to new industrial chemicals other than those covered by a commercial evaluation permit or those referred to in:

- (a) paragraph 21(3)(b) or (e); or
- (b) subsection 21(4); or
- (c) paragraph 21(6)(a) or (b).

### **Subdivision B—Information for decision on recommendation**

#### **48 Information about use and introduction of chemicals**

- (1) If the Director is considering whether to make a recommendation (or a particular kind of recommendation) under section 50B for the declaration of an industrial chemical as a priority existing chemical (whether or not the Director has already identified that chemical), the Director may publish a notice in the Chemical Gazette requiring information on any one or more of the following matters to be given to the Director:
  - (a) specified information about a particular industrial chemical;
  - (b) the names and quantities of industrial chemicals used by persons for a specified purpose in a specified period;
  - (c) the names of industrial chemicals that are introduced by persons in specified quantities in a specified period.
- (2) The notice must expressly be directed to one or more of the following person or persons:
  - (a) a specified person or persons whom the Director believes has or have information described in the notice;
  - (b) all persons who introduce industrial chemicals for a specified purpose or in a specified quantity in a specified period;

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- (c) if the notice specifies a particular industrial chemical which is the subject of a proposed recommendation under section 50B—all persons who introduce that chemical during the period beginning 12 months before the date of the notice and ending at the end of the period specified under subsection (4).
- (3) The notice must require each person to whom it is directed to give the Director information of a specified kind that is available to the person and relevant to the recommendation.
- Note: Subsection 33(3A) of the *Acts Interpretation Act 1901* allows a notice to require different kinds of persons to give different kinds of information.
- (4) The notice must specify a period of at least 28 days for the person or persons to whom it is directed to give information to the Director.
- (5) For the purposes of subsections (1) and (2), a notice is taken to specify a quantity if it specifies a range of quantities (including quantities in a range that exceeds a specified quantity).
- (6) If the Director knows the identity and address of a person to whom the notice is directed (whether individually or as a member of a group), the Director must send a copy of the notice to the person.
- (7) A person must not contravene a notice.

Penalty: 60 penalty units.

- (8) Subsection (7) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (8) (see subsection 13.3(3) of the *Criminal Code*).

**50 Exempt information supplied under section 48**

The giving of information about a chemical in compliance with a notice under section 48 may be accompanied by an application in



the approved form that some or all of the information about the chemical be treated as exempt information under section 75.

#### **50A Summary of information given under section 48**

- (1) Within 90 days after the day on which the last information required to be given to the Director under a notice under section 48 is received, the Director must prepare a summary of the information given to the Director as a result of the notice.
- (2) The summary must:
  - (a) include any information of a kind that is prescribed; and
  - (b) not contain any exempt information.
- (3) If:
  - (a) the Director has refused an application under section 50 for information given as a result of the notice under section 48 to be treated as exempt information; and
  - (b) the applicant applies to the Tribunal under section 102 for review of the decision;the Director must, in spite of subsection (1), delay the preparation of the summary until the application for review has been finalised.
- (4) When the Director has prepared the summary, he or she must publish in the Chemical Gazette a notice stating where a copy of the summary can be obtained.

#### **Subdivision C—Declaration of priority existing chemicals**

##### **50B Recommendation of declaration of priority existing chemical**

- (1) The Director may recommend to the Minister that one or more industrial chemicals be declared priority existing chemicals.
- (2) The Director may make a recommendation only if he or she has reasonable grounds for believing that the manufacture, handling, storage, use or disposal of each industrial chemical covered by the recommendation gives rise, or may give rise, to a risk of adverse health effects or adverse environmental effects.

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- (3) A recommendation for a declaration must:
  - (a) specify whether the declaration should apply to the chemical generally or only when it is:
    - (i) used for one or more specified purposes; or
    - (ii) manufactured, handled, stored or used in a specified geographical area or in specified circumstances; and
  - (b) identify the matters that should be taken into account in preparing the assessment report on the chemical and the information that should accompany any application for an assessment of the chemical under Subdivision D.
- (4) If the Director makes a single recommendation for the declaration of 2 or more industrial chemicals as priority existing chemicals, the Director must also recommend whether the chemicals should be assessed together under Subdivision D.

**51 Declaration of priority existing chemicals**

- (1) If the Director has recommended that a chemical be declared a priority existing chemical, the Minister may declare the chemical a priority existing chemical by notice in the Chemical Gazette.
- (2) The notice must specify, in respect of each chemical to which the notice relates:
  - (a) whether the declaration applies to the chemical generally or only when it is:
    - (i) used for one or more specified purposes; or
    - (ii) manufactured, handled, stored or used in a specified geographical area or in specified circumstances; and
  - (b) whether an assessment of the chemical is to be:
    - (i) a preliminary assessment; or
    - (ii) a full assessment; and
  - (c) which of the matters specified in subsection (3) must be taken into account in preparing the assessment report on the chemical; and

- (d) the kind of information relating to each chemical that must accompany an application for an assessment of the chemical; and
  - (e) if the notice relates to more than one chemical—whether the declared chemicals are to be assessed together.
- (3) Subject to subsections (4) and (5), a notice may require all or any of the following matters to be taken into account in preparing the assessment report on a chemical:
- (a) the properties of the chemical;
  - (b) any use to which the chemical is intended to be, or is reasonably likely to be, put;
  - (c) any adverse effects on the environment or persons which the chemical has the intrinsic capacity to cause;
  - (d) the extent to which the environment, persons in a particular occupation or the public will be exposed to the chemical;
  - (e) any risk to the health or safety of persons who, because of their occupation, are engaged, or likely to be engaged, in the manufacture, handling, storage, use or disposal of the chemical;
  - (f) any risk to the health or safety of likely consumers handling or using the chemical or any product containing the chemical;
  - (g) any risk to the environment arising from the use of the chemical or from the discharge of waste products resulting from the manufacture or use of the chemical;
  - (h) the extent to which any risk referred to in this subsection is capable of being reduced by compliance with:
    - (i) appropriate procedures relating to the manufacture, handling, storage, use or disposal of the chemical; or
    - (ii) special requirements in the packaging or labelling of the chemical; or
    - (iii) procedures relating to the control of, or the discharge into the environment of, the chemical or waste products resulting from the manufacture or use of the chemical;
  - (i) any other relevant information available to the Director.

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- (4) A notice specifying that an assessment of a chemical is to be a preliminary assessment must require that only a matter or matters referred to in paragraphs (3)(a) to (d) be taken into account in preparing an assessment report on the chemical.
- (5) A notice specifying that an assessment of a chemical is to be a full assessment must require that at least one matter referred to in paragraphs (3)(e) to (h) be taken into account in preparing an assessment report on the chemical.

**54 List of priority existing chemicals**

- (1) The Director must maintain a list of priority existing chemicals.
- (2) The Director must maintain a list of chemicals that have been priority existing chemicals.
- (2A) A list kept under subsection (1) or (2) must show in relation to any chemical on the list:
  - (a) whether the chemical was or is to be assessed as a priority existing chemical with any other chemical; and
  - (b) any limitation specified under paragraph 51(2)(a) on the declaration of a chemical; and
  - (c) whether assessment of the chemical was or is to be a preliminary assessment or a full assessment.
- (3) The Director must publish the lists in the Chemical Gazette at least once a year.

**Subdivision D—Assessment of priority existing chemicals**

**55 Applications for assessment of priority existing chemicals**

- (1) Where a chemical becomes a priority existing chemical, a person may, within 28 days after the day on which it did so, apply in writing in the approved form for the assessment of the chemical.
- (1A) 2 or more persons may make a joint application.

- (2) Where the chemical has been a priority existing chemical for longer than 28 days, a person may make a late application in writing in the approved form for the assessment of the chemical.
- (3) An application or late application for assessment of a priority existing chemical must be accompanied by information of all the kinds specified under paragraph 51(2)(d) in the notice declaring the chemical.

### **56 Introduction of priority existing chemicals**

- (1) A person must not introduce a priority existing chemical.  
Penalty: 300 penalty units.
- (2) Subsection (1) does not apply if the person has applied under section 55 for the assessment of the chemical.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

### **57 Assessment of priority existing chemical**

- (1) Where the Director receives an application or applications for the assessment of a priority existing chemical, he or she must cause the chemical to be assessed in accordance with section 60A and a report of the assessment to be prepared.
- (2) Where the Director does not, within 28 days after the day on which a chemical became a priority existing chemical, receive an application for the assessment of the chemical, the Director may, at any time within the 12 months beginning on that day, cause the assessment of the chemical in accordance with section 60A to be commenced and a report of the assessment to be prepared.
- (5) Subject to subsection (6), an assessment is to be made and a draft report of the assessment to be completed under section 60C within 6 months after the day on which the last information required for the assessment is received.

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- (6) The Minister may extend the period for assessment and report by up to 6 months if it is not reasonably practicable for the assessment to be carried out thoroughly, and the report completed, within the period.
- (7) Where the Minister extends the period for assessment and report, the Minister is to notify each applicant for the assessment of the extension immediately.

**58 Obtaining information for assessment**

- (1) For the purposes of assessing a priority existing chemical, the Director may, by notice in the Chemical Gazette, require a person (in this section called *the notifier*) to whom the notice applies under subsection (2) to provide information about the chemical in accordance with this section.
- (2) The notice may be expressed to apply to:
  - (a) all persons who introduce the chemical during the period beginning 12 months before the date of the notice and ending 12 months after that date; or
  - (b) all persons who introduce the chemical during that period in circumstances specified in the notice; or
  - (c) specified persons who introduce the chemical during that period; or
  - (d) specified persons who the Director considers have relevant information.
- (3) The notice may require all or any of the following information about the chemical to be given to the Director in writing:
  - (a) the properties of the chemical and the tests or other ways by which those properties were determined;
  - (b) the quantities of the chemical that have been, or are proposed to be, imported by the notifier;
  - (c) the quantities of the chemical that have been, or are proposed to be, manufactured by the notifier;
  - (d) the uses or potential uses of the chemical that are known to the notifier;

- (e) a description (whether by name or otherwise) of persons to whom the notifier has supplied or intends to supply the chemical;
  - (f) the methods used, or proposed to be used, by the notifier to carry out any of the following activities in relation to the chemical:
    - (i) manufacturing;
    - (ii) handling;
    - (iii) storing;of the chemical;
  - (g) any other matter specified by the Director that is relevant to the assessment of the chemical.
- (4) The notice must specify a period of not less than 28 days for compliance.
- (5) The Director may:
- (a) waive the requirement of a person to give particular information; or
  - (b) extend the period within which a person is to comply with the notice.
- (6) The Director must cause a copy of the notice and, if that notice has identified the information to be supplied under it by reference to a notice under section 51, that other notice, to be sent to each person who is, to the Director's knowledge, a notifier and whose address is known to the Director.
- (7) This section does not prevent the Director seeking information about a priority existing chemical for the purpose of assessing the chemical, being information that is additional to that provided under this section.
- (8) A notifier must not refuse or fail to comply with the notice.
- Penalty: 60 penalty units.

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- (9) Subsection (8) does not apply if the notifier has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (9) (see subsection 13.3(3) of the *Criminal Code*).

- (10) For the purposes of an offence against subsection (8), strict liability applies to the physical element, that the notifier fails as mentioned in that subsection.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

### 59 Time for compliance with varied notice

A notice that varies a notice under section 58 must extend the period for compliance specified in the varied notice by not less than 28 days.

### 60 Exempt information about priority existing chemical

The giving of information about a chemical with an application for its assessment or in compliance with a notice under section 58 may be accompanied by an application in the approved form that some or all of the information about the chemical be treated as exempt information under section 75.

#### 60A Nature of assessment

- (1) The officer preparing the report of the preliminary assessment of a priority existing chemical must determine the significance, for the making of a determination described in subsection (2) in relation to that chemical, of each of the matters required to be taken into account by the notice declaring the chemical as a priority existing chemical.
- (2) The officer preparing the report of the full assessment of a priority existing chemical must determine the risk (if any) of adverse health effects, safety effects or adverse environmental effects that could be caused by:



- (a) importation of the chemical (if it is proposed to import the chemical); or
  - (b) manufacture of the chemical (if it is proposed to manufacture the chemical in Australia); or
  - (c) the use, storage, handling or disposal of the chemical.
- (3) In making a determination under subsection (1) or (2), the officer must take into account the matters required to be taken into account by the notice declaring the chemical as a priority existing chemical.

### **60B Contents of assessment reports**

- (1) An assessment report (whether it is a draft assessment report made under section 60C or a final assessment report made under section 60F) must include a summary of health, safety and environmental matters considered in the assessment and such recommendations as may reasonably be made in relation to each of the following matters:
- (a) the content of a Safety Data Sheet in respect of the chemical;
  - (b) the precautions and restrictions to be observed during the importation, manufacture, handling, storage, use or disposal of the chemical to protect persons exposed to the chemical;
  - (c) controls to limit emissions of the chemical into the environment, including permissible concentrations in emissions of the chemical into the air or water from a manufacturing plant or other facility;
  - (d) the packaging, labelling, handling or storage of the chemical;
  - (e) the measures to be employed in emergencies involving the chemical to minimise hazard to persons and damage to the environment;
  - (f) the uses of the chemical;
  - (g) the means of disposal of the chemical;
  - (h) the circumstances (if any) in which secondary notification of the chemical is required;
  - (i) any prescribed matter.

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- (2) The assessment report (whether draft or final) must not contain exempt information.

**60C Draft assessment report**

On completing an assessment of a priority existing chemical, the Director must cause a draft report of the assessment to be prepared.

**60D Checking draft assessment report for errors**

- (1) As soon as is reasonably practicable after completion of the draft assessment report about a priority existing chemical, the Director must give each applicant for assessment of the chemical:
- (a) a copy of the draft report; and
  - (b) a notice asking the applicant to notify the Director of any errors in the draft report within 28 days.
- (2) The Director must correct any errors notified by the applicant.

**60E Variation of draft assessment report**

- (1) Within 56 days of giving the draft assessment report to each applicant, the Director must:
- (a) give a copy of the draft report with any corrections to each applicant and to any person who has provided information for the assessment in response to a notice under section 58; and
  - (b) publish a notice in the Chemical Gazette:
    - (i) describing the matters contained in the draft report; and
    - (ii) stating that the draft report has been given to each applicant and person who provided information under section 58; and
    - (iii) describing how a person may obtain a copy of the draft report; and
    - (iv) describing how a person may ask the Director to vary the draft report.

- (2) Within 28 days of the publication of the notice under subsection (1), a person may request the Director, in the approved form, to vary the draft report.
- (3) The Director must make a decision about the variation within 56 days after the publication of the notice under subsection (1).
- (4) The Director must decide to vary the draft report as requested if he or she is satisfied that the report, varied as requested, would be correct.
- (5) The Director must decide to refuse to vary the draft report as requested if he or she is not satisfied that the report, varied as requested, would be correct.
- (6) If one, or more than one, request for a variation has been made under subsection (2), the Director must, as soon as he or she has made a decision concerning the request or concerning each such request:
  - (a) publish a notice in the Chemical Gazette:
    - (i) stating that a decision concerning the request or each request has been made; and
    - (ii) describing how a person may otherwise obtain a copy of the decision or each decision; and
  - (b) give a copy of the decision or each decision and a copy of the notice to:
    - (i) each applicant for assessment of the chemical; and
    - (ii) each person who made a request.

### **60F Publication of final assessment report**

- (1) If, within 28 days of the publication of the notice under subsection 60E(1), no person has asked the Director to vary the draft report, the Director must prepare a final assessment report, and, for that purpose, the draft assessment report, incorporating any corrections made under subsection 60D(2), constitutes the final assessment report.

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- (2) Subject to subsection (3), if, within 28 days of the publication of the notice under subsection 60E(1), the Director has been requested to vary the draft assessment report, the Director must, as soon as practicable after the Director has made a decision under section 60E concerning the request or concerning each such request, prepare a final assessment report incorporating:
  - (a) any corrections made under subsection 60D(2); and
  - (b) any variations made in respect of the request or requests.
- (3) The Director must delay preparation of the final assessment report under subsection (2):
  - (a) for 28 days after publishing under subsection 60E(6) the notice, or the last notice, concerning a decision under subsection 60E(5); or
  - (b) if a person applies to the Tribunal under section 102 for review of such a decision before the end of that period—until the application for review is finalised.
- (7) The Director must publish the final assessment report by:
  - (a) giving a copy of it to any prescribed authorities of the Commonwealth, the States or the Territories; and
  - (b) giving a copy of it to such other persons (if any) as the Minister directs; and
  - (c) publishing the report on the website maintained for the National Industrial Chemicals Notification and Assessment Scheme by the Department; and
  - (d) publishing a notice in the Chemical Gazette stating that the report is available as mentioned in paragraph (c).
- (8) The Director may publish the final assessment report in such other ways as the Director considers appropriate.

**61 Prohibition of priority existing chemical until assessment complete**

- (1) In this section:
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**activity**, in relation to a priority existing chemical, means any of the following:

- (a) the importation of the chemical;
- (b) the manufacture of the chemical;
- (c) the manufacture of the chemical in particular circumstances;
- (d) the use of the chemical;
- (e) the use of the chemical for a particular purpose;
- (f) the use of the chemical in particular circumstances;
- (g) the handling of the chemical in particular circumstances;
- (h) the storage of the chemical in particular circumstances.

**particular circumstances** includes a particular geographical area.

- (2) Where the Minister has reasonable grounds for believing that an activity involving a priority existing chemical gives rise to an unacceptable risk of adverse health effects or adverse environmental effects, then, as soon as practicable, the Minister is, by notice in the Chemical Gazette, to prohibit that activity while the chemical remains a priority existing chemical.
- (3) The Minister is to cause a copy of the notice to be sent to each person who is, to the Minister's knowledge, an importer or manufacturer of the chemical.
- (4) An importer or manufacturer of industrial chemicals must not refuse or fail to comply with the notice.

Penalty: 300 penalty units.

- (4A) Subsection (4) does not apply if the importer or manufacturer has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4A) (see subsection 13.3(3) of the *Criminal Code*).

- (5) A person, other than an importer or manufacturer of industrial chemicals, must not refuse or fail to comply with the notice.

Penalty: 240 penalty units.

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- (6) Subsection (5) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (6) (see subsection 13.3(3) of the *Criminal Code*).

- (7) For the purposes of an offence against subsection (4) or (5), strict liability applies to the physical element, that the importer or manufacturer, or the person, fails as mentioned in that subsection.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

**62 Publication of final assessment report revokes declaration**

The publication under section 60F of a final assessment report about a priority existing chemical revokes the declaration of the chemical under subsection 51(1).

**63 Removal of priority existing chemical from Inventory**

Where:

- (a) a chemical has been a priority existing chemical for at least 12 months; and
- (b) an application for the assessment of the chemical has not been received; and
- (c) the Director has not caused the chemical to be assessed under subsection 57(2);

the Director must remove the particulars of the chemical from the Inventory.

## **Division 6—Secondary Notification after Assessment**

### **64 Introducer to notify Director of certain matters**

- (1) Where:
- (a) either or both of the following recommends the secondary notification of the chemical in particular circumstances:
    - (i) an assessment report about a chemical;
    - (ii) particulars included in respect of a chemical in the Inventory; and
  - (b) the circumstances occur in relation to the introduction of the chemical by a person;
- the person must, within 28 days of the occurrence, notify the Director in writing that the circumstances have occurred.

Penalty: 120 penalty units.

- (2) Where a person who introduces an industrial chemical that has been assessed under this Act becomes aware of any of the following circumstances, namely, that since the assessment:
- (a) the function or use of the chemical has changed, or is likely to change, significantly;
  - (b) the amount of the chemical being introduced has increased, or is likely to increase, significantly;
  - (c) in the case of a chemical not manufactured, or proposed to be manufactured, in Australia at the time of the assessment—it has begun to be manufactured in Australia;
  - (d) the method of manufacture of the chemical in Australia has changed, or is likely to change, in a way that may result in an increased risk of an adverse effect of the chemical on occupational health and safety, public health or the environment;
  - (e) additional information has become available to the person as to an adverse effect of the chemical on occupational health and safety, public health or the environment;

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(f) a prescribed event has happened;  
the person must, within 28 days of becoming aware, notify the Director in writing of the circumstances of which the person has become aware.

Penalty: 120 penalty units.

- (2A) To avoid doubt, the reference in subsection (2) to an industrial chemical that has been assessed under this Act includes a reference to:
- (a) a chemical that has been assessed under section 33A (self-assessment); and
  - (b) a chemical that has been assessed but that is now included in the Inventory.
- (3) For the purposes of subsection (2), a person is to be taken to have become aware of circumstances if, having regard to:
- (a) the person's abilities, experience, qualifications and other attributes; and
  - (b) the nature of the circumstances;
- the person ought reasonably to have become aware of the circumstances.
- (4) 2 or more persons on whom are imposed obligations under this section in relation to an industrial chemical may comply with those obligations by jointly notifying the Director under this section.

**65 Secondary notification**

- (1) Where a person notifies the Director under subsection 64(1) of circumstances in relation to an industrial chemical, the Director may, by notice in the Chemical Gazette, require the secondary notification of the chemical by persons to whom the notice applies.
- (2) Where, in relation to an industrial chemical assessed under this Act, the Director becomes aware, because of notification under subsection 64(2) or otherwise, that, since the assessment, any of the circumstances referred to in that subsection occurred, the Director may, by notice in the Chemical Gazette, require the



secondary notification of the chemical by persons to whom the notice applies.

- (3) The notice requiring secondary notification may be expressed to apply to all persons, or specified persons, who introduce the chemical.
- (4) The notice must specify the information about the chemical that is to be given by way of secondary notification, being information about a matter relating to the circumstances because of which the notification is required.
- (5) The notice must specify a period of not less than 28 days for compliance.
- (6) The Director must cause a copy of the notice to be sent to each person who is, to the Director's knowledge, a person to whom the notice applies and whose address is known to the Director.
- (7) If the Director requires the secondary notification of an industrial chemical by persons to whom a notice under subsection (1) or (2) applies, 2 or more of those persons may give a secondary notification of that chemical jointly.
- (8) If 2 or more persons give a joint secondary notification of an industrial chemical, those persons are jointly and severally liable for the fee prescribed under paragraph 110(1)(s) to be the fee in respect of a secondary notification.

#### **66 Exempt information about chemicals subject to secondary notification**

- (1) The giving of secondary notification about a chemical may be accompanied by an application in the approved form that some or all of the information given in the notification be treated as exempt information under section 75.
- (2) 2 or more persons may make a joint application.

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**67 Failure to comply with secondary notification requirements**

- (1) Where a person who is required to give secondary notification of a chemical does not do so, the Minister may, by written notice sent to that person:
  - (a) in the case of a new industrial chemical—suspend any assessment certificate or introduction permit held by the person for that chemical; or
  - (b) in any other case—prohibit the importation and manufacture of the chemical by that person.
- (2) A person must not introduce a chemical in contravention of paragraph (1)(b).

Penalty: 120 penalty units.
- (3) Where, after the Minister has given a notice under subsection (1) to a person, the person complies with the requirements for secondary notification, the Minister is to revoke the notice as soon as is reasonably practicable.

**68 Secondary notification assessment of new industrial chemicals**

- (1) Where secondary notification of a new industrial chemical has been given, the Director must cause the chemical to be assessed in accordance with section 32 and a report of the assessment to be prepared.
- (2) Where the secondary notification of a new industrial chemical is required but is not given by any person, the Director may cause the chemical to be assessed in accordance with section 32 and a report of the assessment to be prepared.
- (3) A new industrial chemical of which secondary notification is required may be assessed by taking into account only such of the matters specified in subsection 32(2) as the Director considers to be of particular significance in relation to that chemical.

- (4) Sections 33 to 38 (inclusive) and 40 apply in relation to an assessment of, and report on, a new industrial chemical required by this section but do so as if:
  - (a) references in them to the applicant for the assessment certificate for the chemical were references to each person who gave secondary notification of the chemical; and
  - (b) references in them to the withdrawal of the application for the assessment certificate were omitted; and
  - (c) where subsection (3) applies—the matters specified in section 33 were limited to those that are relevant to the assessment.
- (5) Subject to subsection (6), an assessment of a new industrial chemical is to be made and the assessment report and public report completed within 90 days after the day on which the last information required for the assessment is received.
- (6) The Minister may extend the period for assessment and report in relation to a new industrial chemical by up to 90 days if it is not reasonably practicable for the assessment to be carried out thoroughly, and the report completed, within the period.
- (7) Where the Minister extends the period for assessment and report in relation to a new industrial chemical, the Minister is to notify the applicant of the extension immediately.

#### **68A Assessment of existing chemicals of which secondary notification required**

- (1) If a secondary notification of an existing chemical has been given, the Director must cause the chemical to be assessed in accordance with section 60A and a report of the assessment to be prepared.
- (2) If the secondary notification of an existing chemical is required but is not given by any person, the Director may cause the chemical to be assessed in accordance with section 60A and a report of the assessment to be prepared.

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- (3) For the purposes of subsections (1) and (2), an assessment in accordance with section 60A is to be conducted as if the references in section 60A to a priority existing chemical were references to an existing chemical.
- (4) Sections 60B to 60F (inclusive) apply in relation to an assessment of, and report on, an existing chemical required by this section but do so as if:
  - (a) any references in those provisions to a priority existing chemical were references to an existing chemical; and
  - (b) any references in those provisions to the applicant for the assessment of the chemical were references to each person who gave secondary notification of the chemical; and
  - (c) the reference in section 60E to a notice under section 58 were a reference to a notice under section 69.
- (5) Subject to subsection (6), an assessment of an existing chemical is to be made and a draft report of the assessment to be completed under section 60C within 6 months after the day on which the last information required for the assessment is received.
- (6) The Minister may extend the period for assessment and report in relation to an existing chemical by up to 6 months if it is not reasonably practicable for the assessment to be carried out thoroughly, and the report completed, within that period.
- (7) If the Minister extends the period for assessment and report in relation to an existing chemical, the Minister is required to notify each applicant for the assessment of the extension immediately.

**69 Obtaining information for purposes of assessment**

- (1) For the purpose of assessing a new industrial chemical under section 68, or an existing chemical under section 68A, the Director may, by notice in the *Chemical Gazette*, require:
  - (a) all persons who introduced the chemical; or
  - (b) specified persons who introduced the chemical; or

- (c) specified persons who the Director considers have relevant information;  
but who are not required to give secondary notification of the chemical, to provide the Director in writing the information about the chemical that is specified in the notice, being particulars about a matter relating to the circumstances because of which the notification is required.
- (2) The notice must specify a period of not less than 14 days for compliance.
- (3) The Director must cause a copy of the notice to be sent to each person who is, to the Director's knowledge, a person to whom the notice applies and whose address is known to the Director.
- (4) A person to whom a notice applies must not refuse or fail to comply with the notice.
- Penalty: 60 penalty units.
- (5) Subsection (4) does not apply if the person has a reasonable excuse.
- Note: A defendant bears an evidential burden in relation to the matter in subsection (5) (see subsection 13.3(3) of the *Criminal Code*).
- (6) For the purposes of an offence against subsection (4), strict liability applies to the physical element, that the person fails as mentioned in that subsection.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

## **70 Variation of assessment certificate on secondary notification**

- (1) Where:
- (a) an assessment certificate for a new industrial chemical is in force; and
- (b) a public report about the chemical is published because the secondary notification of the chemical was required;
- the Director must endorse on the certificate a statement that such a report has been published giving the date of publication.

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- (2) The holder of the certificate must make it available to the Director for the purposes of the endorsement.

**71 List of chemicals requiring secondary notification**

- (1) The Director must maintain a list of chemicals requiring secondary notification.
- (2) The Director must maintain a list of chemicals that required, but no longer require, secondary notification.
- (3) The Director must publish the lists in the Chemical Gazette at least once a year.

**72 Revocation of requirement for secondary notification**

The Director may, by notice in the Chemical Gazette, declare that a chemical is no longer a chemical whose secondary notification is required.

## **Division 7—Assessment Certificates**

### **73 Transfer of assessment certificates**

- (1) Where the holder of an assessment certificate dies, the legal personal representative of his or her estate becomes the holder of that certificate for the purposes of this Act.
- (2) Where the holder of an assessment certificate becomes bankrupt, the person who becomes, under the *Bankruptcy Act 1966*, the trustee in bankruptcy of the estate of the bankrupt becomes the holder of the certificate for the purposes of this Act.
- (3) Where a body corporate that is the holder of an assessment certificate is being wound up, the person appointed to be the liquidator of the body corporate becomes the holder of the certificate for the purposes of this Act.
- (4) Where:
  - (a) the holder of an assessment certificate disposes of the business to which the certificate relates; and
  - (b) it is a term of the agreement for the disposal of the business that the person who acquires the business becomes the holder of the certificate;the person who acquires the business becomes the holder of the certificate for the purposes of this Act.
- (5) Where, under this section, a person becomes the holder of an assessment certificate, the person must, as soon as practicable, give the Director notice in writing of becoming the holder specifying the circumstances because of which the person became the holder.
- (6) If, at any time, the Director becomes satisfied that a person has not complied with subsection (5) in relation to an assessment certificate, the Director may revoke the certificate.

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**74 Record of assessment certificates**

- (1) The Director must maintain a list of industrial chemicals in respect of which an assessment certificate is in force.
- (2) At least once a year, the Director must publish in the Chemical Gazette the additions to, and deletions from, the list that have not been published before.



## Division 8—Confidentiality

### 75 Exempt information

- (1) Subject to this section, if, on an application under section 21AAA, 21P, 21ZB, 22O, 25, 29, 30A, 40D, 42, 45, 50, 60, 66 or 89, the Director is satisfied that:
  - (a) publication of the information specified in the application could reasonably be expected to prejudice substantially the commercial interests of the applicant; and
  - (b) the prejudice outweighs the public interest in the publication of the information;the information is to be treated as exempt information for the purposes of this Act.
- (2) The Director must not grant an application under subsection (1) in relation to basic information about a chemical.
- (2A) The Director must not grant under subsection (1) an application under section 21AAA in relation to information about the chemical name of a chemical unless the application includes a trade name of the chemical.
- (3) The Director must give the applicant written notice of the decision about the application.
- (4) Where the application is rejected, the application is not to be taken to have been finalised under this section for the purposes of the definition of *exempt information* in section 5 for 28 days after the giving of the notice or, where the applicant applies during those days to the Tribunal under section 102 for the review of the decision, until the application to the Tribunal is finalised.

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**76 Confidentiality by Director etc.**

Subject to section 79, an officer who has exempt information, and has it only because of performing functions or duties under this Act or the Regulatory Powers Act as that Act applies in relation to this Act or the regulations, must not make a record of, or disclose, any of the information except:

- (a) in the course of carrying out functions and duties under this Act or the Regulatory Powers Act as that Act applies in relation to this Act or the regulations; or
- (b) by order of a court; or
- (c) with the consent of the person because of whose application the information is exempt information.

## **Division 9—Access to Assessment Information**

### **78 Safety Data Sheets to be available**

Where a chemical for which an assessment certificate has been given under section 46 has been introduced, the Director must ensure that copies of the Safety Data Sheet (if any) for the chemical current on the giving of the certificate are available for inspection by the public at the prescribed times and on payment of the prescribed fee (if any).

### **79 Disclosure of exempt information in certain circumstances**

The Director must disclose exempt information about a chemical to an inquirer if:

- (a) the Director:
  - (i) is satisfied that the inquiry is to get information for the protection of occupational health and safety, public health or the environment; and
  - (ii) is satisfied that the public interest in disclosure outweighs any commercial interest of the person because of whose application the information is exempt information; and
  - (iii) has consulted that person; and
  - (iv) in the case of information given under a notification law—has consulted the authority to whom the information was given; and
  - (v) in the case of information given under an approved foreign scheme—has consulted the government of the foreign country to whom the information was given; or
- (b) the Director:
  - (i) is satisfied of the matters referred to in subparagraphs (a)(i) and (ii); and
  - (ii) is satisfied that delaying the disclosure to hold the consultations referred to in subparagraphs (a)(iii), (iv)

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and (v) could result in danger to a person's health or safety or to the environment.

**80 Notice of disclosure of information**

(1) Where:

- (a) the Director decides to disclose information under paragraph 79(a); and
- (b) a person, authority or government consulted under subparagraph 79(a)(iii), (iv) or (v) did not consent to the disclosure;

the Director must:

- (c) give that person, authority or government written notice of the decision; and
  - (d) delay disclosing the information for 28 days after giving the notice, or, where the person applies during those days to the Tribunal under section 102 for the review of the decision, until the application is finalised.
- (2) Where the Director discloses information under paragraph 79(b), he or she must, as soon as practicable, give written notice of the disclosure to the person, and to any authority or government, who or that would have been consulted if paragraph 79(a) had applied.

## **Part 3A—Registration of introducers of industrial chemicals**

### **Division 1—Preliminary**

#### **80A Overview of this Part**

- (1) The purpose of this Part is to require every person who introduces relevant industrial chemicals during a year, or who proposes to do so, to become registered for the year. A person who does not become registered might commit an offence.
- (2) Every person who applies to be registered must pay a prescribed fee for the application.
- (3) However, broadly speaking, only those who introduced chemicals of at least the threshold value last financial year, or who propose to introduce chemicals of at least that value during the registration year, must pay a registration charge. (A person who pays the charge at the beginning of the year but who does not in fact introduce chemicals of at least the threshold value during the year is entitled to a refund.)

#### **80B Person must be registered to introduce relevant industrial chemicals**

- (1) A person commits an offence if:
  - (a) the person introduces any relevant industrial chemicals in a registration year; and
  - (b) either:
    - (i) the person is not registered in relation to the registration year; or
    - (ii) at the time the relevant chemicals are introduced, the person's registration in relation to the registration year is not in force.

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Penalty: 300 penalty units.

(2) Strict liability applies to paragraph (1)(b).

Note: For strict liability, see section 6.1 of the *Criminal Code*.

## **Division 2—The Register**

### **80C Establishment of Register**

- (1) There is established a register to be known as the Register of Industrial Chemical Introducers.
- (2) The Register is to be kept by the Director at a place and in a form that the Director determines in writing.
- (3) The Register may be kept by electronic means.
- (4) The Director must ensure that the Register is available for inspection by the public at times prescribed for the purposes of this subsection.

### **80D Content of Register**

The Register must contain, in respect of each person registered:

- (a) the name and address of the person; and
- (b) the person's registration number; and
- (c) such other information (other than confidential commercial information concerning that person) as is prescribed.

## Division 3—Registration

### 80E Applying for new registration

- (1) Any person may apply to the Director to be registered in relation to a registration year.
- (2) The application may be made at any time before or during the registration year concerned.
- (3) However, if:
  - (a) a person's registration stops being in force at the end of a registration year because the person did not apply for renewal under section 80KA during that registration year; and
  - (b) after the start of the next registration year, the person applies to be registered in relation to that next registration year;that application must not be dealt with as a new application under this section, but must instead be dealt with as a late renewal application under section 80KB.

### 80F Application for new registration

An application for registration, in relation to a particular registration year, must:

- (a) be in the approved form; and
- (b) contain the information required by the form including, but without being limited to, information relating to relevant industrial chemicals (if any) introduced by the applicant during the previous financial year; and
- (c) be accompanied by the prescribed fee under section 110 in respect of the application; and
- (d) if the person is a chargeable person in relation to that registration year—be accompanied by:
  - (i) the amount prescribed for the purposes of item 1 of the table in subsection 80T(2), paid on account of any



registration charge payable in relation to that registration year; or

- (ii) the amount prescribed for the purposes of item 2 of the table in subsection 80T(2), paid on account of any registration charge payable in relation to that registration year; or
- (iii) a registration charge in relation to that registration year in the amount prescribed for the purposes of item 3 of the table in subsection 80T(2).

### **80G Grant of application for new registration**

- (1) The Director must grant an application, in relation to a registration year, if he or she is satisfied that the application complies with section 80F.
- (2) The Director must inform the applicant of the grant by written notice.
- (4) From the time the application is made to the Director until the Director grants that application, the applicant is taken to be registered in relation to the registration year.

### **80H Certificate of registration**

Once the Director grants an application, he or she must:

- (a) allot a registration number to the person; and
- (b) enter the information mentioned in section 80D on the Register; and
- (c) issue a registration certificate to the person in relation to the registration year to which the application relates.

### **80J Registration period**

- (1) Subject to subsection (2), a person's registration is in force for the whole of the registration year to which it relates.

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- (2) Subject to the operation of subsections 80G(4), 80KA(4) and 80KB(5) and (6), if a person becomes registered in relation to a registration year after the start of that year, the person's registration is in force from the day on which the person's name is entered in the Register until the end of that year.

**80K Applying for renewal of registration**

- (1) A person who is registered in relation to a particular registration year may apply for a renewal of registration in relation to the next registration year.
- (2) A renewal application must be made as follows:
- (a) in accordance with section 80KA; and
  - (b) before the start of the next registration year.

Note: Section 80KB deals with late renewal applications.

**80KA Renewal applications made for next year**

- (1) A renewal application that is made as referred to in subsection 80K(2) must:
- (a) be in the approved form; and
  - (b) contain the information required by the form; and
  - (c) if any of the information previously given to the Director under section 80F, this section or section 80KB is no longer accurate—contain the accurate information; and
  - (d) be accompanied by the fee prescribed under paragraph 110(1)(ub) in respect of the renewal application; and
  - (e) if the person is a chargeable person in relation to that registration year—be accompanied by:
    - (i) the amount prescribed for the purposes of item 1 of the table in subsection 80T(2), paid on account of any registration charge payable in relation to that registration year; or

- (ii) the amount prescribed for the purposes of item 2 of the table in subsection 80T(2), paid on account of any registration charge payable in relation to that registration year; or
  - (iii) a registration charge in relation to that registration year in the amount prescribed for the purposes of item 3 of the table in subsection 80T(2).
- (2) The Director must grant the renewal application if he or she is satisfied that the application complies with the requirements of subsection (1) and section 80K.
- (4) If the Director does not grant the renewal application before the start of the next registration year, the applicant is taken to be registered in relation to that next registration year until the Director grants the renewal application.

**80KB Late renewal applications are subject to a penalty**

- (1) If a person referred to in subsection 80K(1) makes an application for renewal of registration (a **late renewal application**) after the time specified in paragraph 80K(2)(b), in contravention of that paragraph, the person must pay the late renewal penalty prescribed under subsection 110A(1).
- (2) A late renewal application must:
- (a) comply with the requirements of paragraphs 80KA(1)(a) to (d); and
  - (b) be accompanied by the late renewal penalty mentioned in subsection (1); and
  - (c) if the person is a chargeable person in relation to that registration year—be accompanied by:
    - (i) the amount prescribed for the purposes of item 1 of the table in subsection 80T(2), paid on account of any registration charge payable in relation to that registration year; or

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- (ii) the amount prescribed for the purposes of item 2 of the table in subsection 80T(2), paid on account of any registration charge payable in relation to that registration year; or
  - (iii) a registration charge in relation to that registration year in the amount prescribed for the purposes of item 3 of the table in subsection 80T(2).
- (3) The Director must grant the late renewal application if he or she is satisfied that the application complies with the requirements of subsection (2).
- (5) In relation to the late renewal application, the applicant is taken to be registered in relation to the relevant registration year:
  - (a) from the time the application is made until the Director grants the renewal application; and
  - (b) when the Director grants the renewal application—since the start of that registration year.
- (6) However, subsection (5) does not apply for the purposes of a prosecution under section 80B:
  - (a) that is in relation to the introduction of relevant industrial chemicals that occurred in the registration year for which the late renewal application is made; and
  - (b) for which the charge was laid before the late renewal application was made.

**80KC Director must give notice of renewal decision**

- (1) In relation to a renewal application under section 80KA or a late renewal application under section 80KB, the Director must, by notice in writing, inform the applicant of the grant of the application.

### **80L Withdrawal of application**

- (1) An applicant may withdraw his or her application for registration or renewal of registration at any time before the application has been granted.
- (2) The withdrawal must be by written notice to the Director.
- (3) If a person withdraws an application for registration or renewal of registration, the Director must pay to the person, on behalf of the Commonwealth, an amount equal to the amount paid as registration charge, or on account of registration charge, payable in relation to that registration or renewal.

### **80M Time for dealing with applications**

Subject to section 80N, the Director must deal with an application for registration, or renewal of registration, as follows:

- (a) if the application is in relation to the registration year in which the application is made or a previous registration year—as soon as practicable but, in any case, within 30 days after receipt of the application; and
- (b) if the application is in relation to the next registration year—as soon as practicable but, in any case, not later than the later of:
  - (i) 30 days after the start of that next registration year; and
  - (ii) 30 days after receipt of the application.

### **80N Director may require further information**

- (1) If the Director is satisfied that, for a proper consideration of an application for registration or renewal, further information is required, he or she may, by notice in writing given to the applicant, require the applicant to provide the further information within a period specified in the notice.

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- (2) In working out a period of 30 days referred to in section 80M, the period starting with the giving of that notice and ending with the provision of:
  - (a) the further information; or
  - (b) an explanation why that further information cannot be provided;must be disregarded.
- (3) If the applicant fails either to provide that further information or to explain why that further information cannot be provided within the period allowed for providing that further information, the application is taken to have been withdrawn at the end of that period.

**80P Cancellation or endorsement of registration in certain cases**

- (1) The Director must cancel a person's registration in relation to a particular registration year if the person's name was entered on the Register by mistake.
- (2) The Director may correct the Register if he or she is satisfied that any particulars recorded in relation to a person whose name was entered on the Register were recorded in error.
- (3) If, at any time during or after the end of a registration year, the Director becomes satisfied for any reason that a person registered in relation to that year will not, or did not, during that year, introduce chemicals of a value equal to or exceeding the threshold value, the Director must:
  - (a) endorse the Register with a notation stating that he or she is so satisfied and indicating the reason for being so satisfied; and
  - (b) if the person has paid an amount as or on account of registration charge—notify the person in writing that the person is entitled to be repaid that amount; and

- (c) unless the person is a body corporate that has ceased to exist because of a takeover or a merger—pay to the person, on behalf of the Commonwealth, an amount equal to the amount paid as registration charge, or on account of registration charge, payable in relation to the registration year.
- (4) It is a condition of registration that a person who is registered in relation to a registration year must inform the Director in writing:
  - (a) as soon as possible; and
  - (b) in any case, before August 31 of that registration year;if the person considers that, for any reason, it is unlikely that the person will seek registration in relation to the next registration year.
- (5) Compliance with the condition set out in subsection (4) in relation to a particular registration year does not prevent a person later seeking registration in relation to that registration year.

**80QA Assessment of registration charge by Director in respect of certain registered persons**

- (1AA) This section applies in relation to a person who has paid an amount on account of the registration charge payable in relation to a registration year under any of the following:
  - (a) subparagraph 80F(d)(i) or (ii);
  - (b) subparagraph 80KA(1)(e)(i) or (ii);
  - (c) subparagraph 80KB(2)(c)(i) or (ii).
- (1) The Director must, on the basis of any relevant information that is available to the Director, issue an assessment of registration charge payable by a person in relation to the registration year.
- (1A) The assessment must be in writing and set out the following:
  - (a) if registration charge is payable by the person in relation to the year—the amount of charge so payable;
  - (b) if registration charge is not payable by the person in relation to the year—a statement to that effect;

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- (c) if registration charge is payable by the person in relation to the year but the person is entitled to be repaid the charge under subsection 80P(3)—the amount of the charge so payable and the amount of the repayment.
- (1B) If the Director is satisfied that further information is required to issue the assessment, he or she may, by written notice given to the person, require the person to:
- (a) provide the further information; and
  - (b) do so within a period specified in the notice (which must be at least 28 days after the day the notice is given).
- (2) The assessment issued in respect of a person and a registration year must record the amount paid on account of registration charge in relation to that year.
- (3) If registration charge is payable in relation to a registration year, any amount paid on account of that charge is, by force of this subsection, applied in satisfaction of that charge.
- (4) If the amount of registration charge payable by a person in relation to a registration year exceeds the amount paid on account of that charge, the person is required to pay an amount of charge equal to the amount of the excess.
- (5) In the circumstances referred to in subsection (4):
- (a) the assessment must set out a date (which may not be earlier than 28 days after the day the assessment is given) by which charge equal to the amount of the excess referred to in that subsection is required to be paid by the person to whom the assessment relates; and
  - (b) if that amount is not so paid within that period—it may be recovered from that person as a debt due to the Commonwealth.
- (6) An assessment is taken to be a decision for the purpose of the *Administrative Appeals Tribunal Act 1975*.



- (7) The production of an assessment, or of a document purporting to be an assessment, signed by the Director or a delegate of the Director, is conclusive evidence:
- (a) of the due making of the assessment; and
  - (b) except in proceedings under section 80QC on a review or appeal relating to the assessment—that the amounts specified in the assessment and all the particulars of the assessment are correct.

### **80QB Fresh assessments**

- (1) Subject to subsection (2), if the Director is satisfied that an assessment made under section 80QA is incorrect, the Director may make a fresh assessment under that section in substitution for the original assessment, whether or not registration charge has been fully paid in respect of the original assessment.
- (2) A fresh assessment may:
- (a) if the original assessment was based on false or misleading information given to the Director—be made at any time; or
  - (b) otherwise—be made only within 4 years from the day on which charge became payable under the original assessment.

### **80QC Reconsideration and review of assessments**

- (1) A person who receives an assessment made by the Director may, by written notice given to the Director within 21 days after the day on which the person first received the assessment or such longer period that the Director allows, request the Director to reconsider the assessment.
- (2) The person must set out in the request reasons for making the request.
- (3) Upon receipt of the request, the Director must reconsider the assessment and, subject to subsection (4), may confirm or revoke the assessment or vary the assessment in any manner that he or she thinks fit.

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- (4) If the Director does not confirm, revoke or vary an assessment within 21 days after the day he or she received the request under subsection (1) to reconsider the assessment, he or she is taken, at the end of that period, to have confirmed the assessment under subsection (3).
- (5) If the Director confirms, revokes or varies an assessment before the end of the period referred to in subsection (4), the Director must, by written notice given to the person making the request, tell the person the result of the reconsideration of the assessment and the reasons for confirming, varying or revoking the assessment, as the case may be.
- (6) A failure to comply with subsection (5) does not affect the validity of the confirmation, revocation or variation.
- (7) Applications may be made to the Administrative Appeals Tribunal for review of assessments of the Director that have been confirmed or varied under subsection (3).
- (8) If an assessment is taken, because of subsection (4), to be confirmed, section 29 of the *Administrative Appeals Tribunal Act 1975* applies as if the prescribed time for making application for review of the assessment were the period beginning on the day on which the assessment is taken to be confirmed and ending on the 28th day after that day.
- (9) If a request is made under subsection (1) in respect of an assessment, section 41 of the *Administrative Appeals Tribunal Act 1975* applies as if the making of the request were the making of an application to the Administrative Appeals Tribunal for a review of the assessment.

**80QD Retention of records by certain registered persons**

- (1) If:
  - (a) a person makes an application for registration, or renewal of registration, in relation to a registration year; and
  - (b) the Director grants that application;

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the person must retain, for 5 years after the end of that registration year, such records relating to the introduction of industrial chemicals in that year (whether introduced before, on or after, the day of grant of the application) as are necessary to work out whether the registration charge is payable and any amount of registration charge payable by the person in relation to that year under section 80T.

Penalty: 30 penalty units

- (2) Subsection (1) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

**80R Transfer of registration**

- (1) Except as set out in subsections (2), (3) and (4), the registration of a person is not transferable.
- (2) If a registered person dies, the legal personal representative of the person's estate becomes the registered person for the purposes of this Act.
- (3) If a registered person becomes bankrupt, the trustee of the estate of the bankrupt becomes the registered person for the purposes of this Act.
- (4) If a body corporate that is registered is being wound up, the person appointed to be the liquidator of the body corporate becomes the registered person for the purposes of this Act.
- (5) If a person becomes a registered person because of the operation of subsection (2), (3) or (4), the person must, as soon as practicable, give the Director notice in writing:
  - (a) that the person is registered; and
  - (b) of the reason why the person became registered;so that the Register can be appropriately updated.
- (6) If:

**Part 3A** Registration of introducers of industrial chemicals

**Division 3** Registration

**Section 80R**

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- (a) a body corporate appearing on the Register is taken over by another person (whether or not appearing on the Register);  
and
  - (b) as a result of that takeover the body corporate ceases to exist; that other person must notify the Director of particulars of the takeover within 7 days after the takeover takes effect.
- (7) If a body corporate appearing on the Register and another body corporate (whether or not appearing on the Register) merge to form a new body corporate, the new body corporate must notify the Director of the merger within 7 days of its taking effect.

**Division 4—Registration charge****80S Registration charge**

A chargeable person to whom registration is granted in relation to a particular registration year (whether by way of original application or renewal) is liable to pay a charge on the registration imposed:

- (a) so far as it is a duty of customs within the meaning of section 55 of the Constitution—by the *Industrial Chemicals (Registration Charge—Customs) Act 1997*; and
- (b) so far as it is a duty of excise within the meaning of section 55 of the Constitution—by the *Industrial Chemicals (Registration Charge—Excise) Act 1997*; and
- (c) so far as it is neither a duty of customs nor a duty of excise within the meaning of section 55 of the Constitution—by the *Industrial Chemicals (Registration Charge—General) Act 1997*.

**80T Amount of charge**

- (1) The rate of registration charge payable by a chargeable person in relation to a registration year is an amount worked out in accordance with the table in subsection (2).
- (2) The following table has effect:

**Part 3A** Registration of introducers of industrial chemicals

**Division 4** Registration charge

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<b>Registration charge payable</b>			
<b>Item</b>	<b>If this case applies:</b>	<b>and the value of chemicals introduced in the registration year:</b>	<b>then the amount is:</b>
1	the chargeable person has paid an amount on account of registration in relation to the registration year under subparagraph 80F(d)(i) or (ii), 80KA(1)(e)(i) or (ii) or 80KB(2)(c)(i) or (ii)	is equal to or exceeds \$100,000 but is less than \$500,000	the amount prescribed by regulation for the purposes of this table item.
2	the chargeable person has paid an amount on account of registration in relation to the registration year under subparagraph 80F(d)(i) or (ii), 80KA(1)(e)(i) or (ii) or 80KB(2)(c)(i) or (ii)	is equal to or exceeds \$500,000 but is less than \$5,000,000	the amount prescribed by regulation for the purposes of this table item.
3	the chargeable person has paid an amount on account of registration in relation to the registration year under subparagraph 80F(d)(i) or (ii), 80KA(1)(e)(i) or (ii) or 80KB(2)(c)(i) or (ii)	is equal to or exceeds \$5,000,000	the amount prescribed by regulation for the purposes of this table item.
4	any other case	is any value	the amount prescribed by regulation for the purposes of table item 3.

**80U Waiver or remission of charge**

The regulations may make provision:

- (a) for the waiver by the Director of registration charges payable by a person; and
  - (b) for the remission by the Director of the whole or a part of registration charges otherwise payable by a person;
- in circumstances identified in the regulations.

## Division 5—Miscellaneous

### 80W Power of the Director to obtain information

- (1) If:
- (a) the Director reasonably believes that a person may introduce or may have introduced a relevant industrial chemical during a particular registration year; and
  - (b) the person is not or was not registered in relation to that registration year;
- the Director may, by written notice, require the person to give the Director any information relating to the introduction during the period specified in the notice.
- (2) The Director may, by written notice, require a registered person to give to the Director any information relating to the introduction by that person of relevant industrial chemicals during the period specified in the notice.
- (3) A person must not refuse or fail to comply with a notice given to the person under this section.

Penalty: 30 penalty units

- (4) Subsection (3) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (4) (see subsection 13.3(3) of the *Criminal Code*).

- (5) For the purposes of an offence against subsection (3), strict liability applies to the physical element, that the person fails as mentioned in that subsection.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.



## **Part 3B—Standards for cosmetics imported into, or manufactured in, Australia**

### **81 Setting standards**

- (1) The Minister may, by legislative instrument, determine standards for cosmetics imported into, or manufactured in, Australia, having regard to Australia's international obligations.
- (2) In addition to the requirement under the *Legislation Act 2003* for the instrument to be registered, a copy of the instrument must be published in the Chemical Gazette. However, failure to publish a copy does not affect the validity or enforceability of the instrument.

### **81A Complying with standards**

A person commits an offence if, at a particular time:

- (a) the person imports into, or manufactures in, Australia a cosmetic; and
- (b) the cosmetic is subject to a standard set under section 81; and
- (c) the cosmetic does not meet the standard.

Penalty: 120 penalty units.

## Part 4—Enforcement

### Division 1—Offences, injunctions and charge recovery

#### 82 Knowledge of chemical to which charge relates

For the purposes of this Act, a person is to be taken to have known that a chemical in respect of whose introduction the person has been charged with an offence was, at the time of the introduction, a chemical of the kind to which the charge relates if, having regard to:

- (a) the person's abilities, experience, qualifications and other attributes; and
  - (b) all the circumstances surrounding the alleged offence;
- the person ought reasonably to have known, at the time of the introduction, that the chemical was a chemical of that kind.

#### 83 Injunctions

##### *Enforceable provisions*

- (1) A provision is enforceable under Part 7 of the Regulatory Powers Act if it is:
  - (a) an offence against this Act or the regulations; or
  - (b) an offence against the *Crimes Act 1914* or the *Criminal Code* that relates to this Act or the regulations.

Note: Part 7 of the Regulatory Powers Act creates a framework for using injunctions to enforce provisions.

##### *Authorised person*

- (2) For the purposes of Part 7 of the Regulatory Powers Act, each of the following persons is an authorised person in relation to the provisions mentioned in subsection (1):
  - (a) the Minister;

- (b) any other person.

*Relevant court*

- (3) For the purposes of Part 7 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the provisions mentioned in subsection (1):
- (a) the Federal Court of Australia;
  - (b) the Federal Circuit Court of Australia;
  - (c) a court of a State or Territory that has jurisdiction in relation to matters arising under this Act.

*Additional matters relevant to court's power to grant injunctions*

- (4) The power of a relevant court under Part 7 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1), to grant an injunction restraining a person from engaging in conduct may be exercised whether or not conduct of that kind constitutes a serious and immediate risk of adverse health effects or adverse environmental effects.
- (5) The power of a relevant court under Part 7 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1), to grant an injunction requiring a person to do a thing may be exercised whether or not there is a serious and immediate risk of adverse health effects or adverse environmental effects if the person refuses or fails to do that thing.
- (6) Subsections (4) and (5) are in addition to, and do not limit, subsections 124(1) and (2) of the Regulatory Powers Act.

*Extension to external Territories*

- (7) Part 7 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1), extends to every external Territory.

**Part 4** Enforcement

**Division 1** Offences, injunctions and charge recovery

Section 83A

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**83A Recovery of registration charge**

Registration charge that is due and payable is a debt due to the Commonwealth and may be recovered in a court of competent jurisdiction.

## **Division 2—Inspectors**

### **84 Appointment of inspectors**

- (1) The Director may, in writing, appoint a person engaged under the *Public Service Act 1999* to be an inspector.
- (2) Arrangements may be made under section 71 of the *Public Service Act 1999* for officers of the Public Service of a State or Territory to exercise the powers and perform the functions of inspectors.

## Division 3—Monitoring

### 85 Monitoring powers

#### *Provisions subject to monitoring*

- (1) The following provisions are subject to monitoring under Part 2 of the Regulatory Powers Act:
  - (a) the provisions of this Act and the regulations;
  - (b) an offence against the *Crimes Act 1914* or the *Criminal Code* that relates to this Act or the regulations.

Note: Part 2 of the Regulatory Powers Act creates a framework for monitoring whether this Act and the regulations have been complied with. It includes powers of entry and inspection.

#### *Information subject to monitoring*

- (2) Information given in compliance or purported compliance with a provision of this Act or the regulations is subject to monitoring under Part 2 of the Regulatory Powers Act.

Note: Part 2 of the Regulatory Powers Act creates a framework for monitoring whether the information is correct. It includes powers of entry and inspection.

#### *Related provisions*

- (3) For the purposes of Part 2 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2), there are no related provisions.

#### *Authorised applicant*

- (4) For the purposes of Part 2 of the Regulatory Powers Act, an inspector is an authorised applicant in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2).

*Authorised person*

- (5) For the purposes of Part 2 of the Regulatory Powers Act, an inspector is an authorised person in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2).

*Issuing officer*

- (6) For the purposes of Part 2 of the Regulatory Powers Act, a magistrate is an issuing officer in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2).

*Relevant chief executive*

- (7) For the purposes of Part 2 of the Regulatory Powers Act, the Director is the relevant chief executive in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2).
- (8) The Director may, in writing, delegate the Director's powers and functions under Part 2 of the Regulatory Powers Act in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2) to:
- (a) a person whose classification level appears in Group 7 or 8 of Schedule 1 to the Classification Rules under the *Public Service Act 1999*; or
  - (b) a person who is acting in a position usually occupied by a person with a classification level of a kind mentioned in paragraph (a).

*Relevant court*

- (9) For the purposes of Part 2 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2):
- (a) the Federal Court of Australia;

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- (b) the Federal Circuit Court of Australia;
- (c) a court of a State or Territory that has jurisdiction in relation to matters arising under this Act.

*Person assisting*

- (10) For the purposes of Part 2 of the Regulatory Powers Act, an inspector may be assisted by other persons in exercising powers or performing functions or duties under that Part in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2).

*Use of force in executing a warrant*

- (11) In executing a monitoring warrant under Part 2 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1) or the information mentioned in subsection (2):
  - (a) an inspector may use such force against things as is necessary and reasonable in the circumstances; and
  - (b) a person assisting an inspector may use such force against things as is necessary and reasonable in the circumstances.

*Additional monitoring powers*

- (12) For the purposes of determining:
  - (a) whether a provision mentioned in subsection (1) has been, or is being, complied with; or
  - (b) the correctness of information mentioned in subsection (2);the additional powers mentioned in subsection (13) are taken to be included in the monitoring powers under Part 2 of the Act.
- (13) The additional monitoring powers are the powers to take and keep samples of any substance at any premises entered under section 18 of the Regulatory Powers Act, as that section applies in relation to the provisions mentioned in subsection (1) or the information mentioned in subsection (2).



*Extension to external Territories*

- (14) Part 2 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2), extends to every external Territory.

## Division 4—Investigation

### 86 Investigation powers

#### *Provisions subject to investigation*

- (1) The following provisions are subject to investigation under Part 3 of the Regulatory Powers Act:
  - (a) an offence against this Act or the regulations;
  - (b) an offence against the *Crimes Act 1914* or the *Criminal Code* that relates to this Act or the regulations.

Note: Part 3 of the Regulatory Powers Act creates a framework for investigating whether a provision has been contravened. It includes powers of entry, search and seizure.

#### *Related provisions*

- (2) For the purposes of Part 3 of the Regulatory Powers Act, as that Part applies in relation to evidential material that relates to a provision mentioned in subsection (1), there are no related provisions.

#### *Authorised applicant*

- (3) For the purposes of Part 3 of the Regulatory Powers Act, an inspector is an authorised applicant in relation to evidential material that relates to a provision mentioned in subsection (1).

#### *Authorised person*

- (4) For the purposes of Part 3 of the Regulatory Powers Act, an inspector is an authorised person in relation to evidential material that relates to a provision mentioned in subsection (1).

*Issuing officer*

- (5) For the purposes of Part 3 of the Regulatory Powers Act, a magistrate is an issuing officer in relation to evidential material that relates to a provision mentioned in subsection (1).

*Relevant chief executive*

- (6) For the purposes of Part 3 of the Regulatory Powers Act, the Director is the relevant chief executive in relation to evidential material that relates to a provision mentioned in subsection (1).
- (7) The Director may, in writing, delegate the Director's powers and functions under Part 3 of the Regulatory Powers Act in relation to evidential material that relates to a provision mentioned in subsection (1) to:
- (a) a person whose classification level appears in Group 7 or 8 of Schedule 1 to the Classification Rules under the *Public Service Act 1999*; or
  - (b) a person who is acting in a position usually occupied by a person with a classification level of a kind mentioned in paragraph (a).

*Relevant court*

- (8) For the purposes of Part 3 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the provisions mentioned in subsection (1):
- (a) the Federal Court of Australia;
  - (b) the Federal Circuit Court of Australia;
  - (c) a court of a State or Territory that has jurisdiction in relation to matters arising under this Act.

*Person assisting*

- (9) An inspector may be assisted by other persons in exercising powers or performing functions or duties under Part 3 of the Regulatory Powers Act in relation to evidential material that relates to a provision mentioned in subsection (1).

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*Use of force in executing a warrant*

- (10) In executing an investigation warrant under Part 3 of the Regulatory Powers Act, as that Part applies in relation to evidential material that relates to a provision mentioned in subsection (1):
- (a) an inspector may use such force against things as is necessary and reasonable in the circumstances; and
  - (b) a person assisting an inspector may use such force against things as is necessary and reasonable in the circumstances.

*Extension to external Territories*

- (11) Part 3 of the Regulatory Powers Act, as that Part applies in relation to a provision mentioned in subsection (1), extends to every external Territory.

## **Division 5—Exempt information given to inspectors**

### **89 Exempt information given to inspectors**

- (1) If:
- (a) an inspector enters premises under Part 2 or 3 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsections 85(1) and 86(1) of this Act, and the information mentioned in subsection 85(2) of this Act; and
  - (b) the inspector asks the occupier of the premises, or requires any person on the premises, to answer any question or produce any document;
- the occupier or person may apply to the Director, in the approved form, for one or more of the following to be treated as exempt information under section 75:
- (c) specified information given in answer to the question;
  - (d) specified information in the document;
  - (e) specified information obtained by the inspector, or a person assisting the inspector, because of that entry or of the exercise of powers under that Part as a result of that entry.
- (2) Before making such an application, the occupier of the premises, or the person on the premises, may inform the inspector of:
- (a) the occupier's or person's intention to make such an application; and
  - (b) the information (the *prospective information*) to be specified in such an application.
- (3) If the occupier of the premises, or the person on the premises, so informs the inspector, the prospective information is taken to be exempt information for the purposes of this Act until whichever of the following occurs first:
- (a) the occupier or person makes the application;
  - (b) the end of the period of 7 days beginning on the day the inspector was so informed.

## **Part 5—Administration**

### **90 Director**

- (1) There is to be a Director, National Industrial Chemicals Notification and Assessment Scheme, who is to be appointed by the Governor-General.
- (2) The Director is to be appointed on a full-time basis.

### **91 Functions of Director**

- (1) The Director has the functions conferred on him or her by this Act.
- (2) The Director must manage the day to day administration of this Act and must do so under the direction of the Secretary of the Department.
- (3) The Secretary of the Department may require the Director to perform functions or carry out duties for the Department in relation to chemicals to the extent to which they do not interfere with the performance of functions referred to in subsection (1) or (2).

### **92 Terms and conditions of appointment of Director**

- (1) The Director holds office for the period, not exceeding 5 years, specified in the instrument of appointment.
- (3) The Director holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Minister in writing.

### **93 Remuneration of Director**

- (1) The Director is to be paid such remuneration as is determined by the Remuneration Tribunal.
  - (2) The Director is to be paid such allowances as are prescribed.
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- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

#### **94 Leave of absence of Director**

- (1) The Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Minister may grant the Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

#### **95 Resignation of Director**

The Director may resign the office of Director by signed instrument delivered to the Governor-General.

#### **96 Termination of appointment of Director**

- (1) The Governor-General may terminate the appointment of the Director for misbehaviour or physical or mental incapacity.
- (2) The Governor-General may terminate the appointment of the Director if the Director:
- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
  - (b) fails, without reasonable excuse, to comply with section 98; or
  - (c) is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days of any period of 12 months; or
  - (d) engages in paid employment outside the duties of the office of Director without the consent of the Minister.

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**97 Acting Director**

The Minister may appoint a person to act as the Director:

- (a) during a vacancy in the office of Director, whether or not an appointment has previously been made to that office; or
- (b) during any period, or during all periods, when the Director is absent from duty or from Australia or is, for any other reason, unable to perform the duties of that office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

**98 Disclosure of interests of Director**

The Director must give written notice to the Minister of all direct or indirect pecuniary interests that the Director has or may have in any business, or in any body corporate carrying on a business.

**99 Arrangements relating to staff of the Department**

- (1) The Secretary of the Department may make the services of employees in the Department available for the purposes of assessing chemicals under this Act or assisting in the administration of this Act.
- (2) While a person is performing services made available under subsection (1), that person must do so in accordance with the directions of the Director and not otherwise.
- (3) The functions or duties of the Director referred to in subsection 91(3) may be functions or duties relating to the control of employees in the Department referred to in subsection (1) of this section while they are performing functions and duties for the Department.



**100 Arrangements relating to staff of Departments**

- (1) The Secretary of the Department may arrange with an Agency Head (within the meaning of the *Public Service Act 1999*) for the services of officers or employees in the Agency to be made available for the purposes of assessing chemicals under this Act.
- (2) While a person is performing services under an arrangement under this section, that person shall perform his or her functions and duties in accordance with the directions of the Director and not otherwise.

**100A Industrial Chemicals Account**

- (1) The Industrial Chemicals Account is established.
- (2) The Account is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

**100B Credits to Account**

There must be credited to the Account the following:

- (b) any amount of registration charge or amount on account of registration charge paid under section 80F, 80KA, 80KB or 80S;
- (c) any registration charge actually paid on an assessment under section 80QA or on a reconsideration or review of such an assessment;
- (d) any fees received under subsection 110(1);
- (e) amounts equal to amounts received by the Commonwealth in connection with the performance of the Director's functions under this Act or the regulations;
- (f) amounts equal to money received by the Commonwealth for services provided or to be provided, by or on behalf of the Commonwealth, using amounts standing to the credit of the Account;

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- (g) amounts equal to interest received by the Commonwealth from the investment of amounts standing to the credit of the Account;
- (h) amounts equal to money received by the Commonwealth in relation to property paid for with amounts standing to the credit of the Account;
- (i) amounts equal to amounts of any gifts given or bequests made for the purposes of the Account;
- (j) amounts equal to receipts relating to the recovery of debts (other than debts in respect of statutory fines and penalties) by the Commonwealth that are associated with expenditure of amounts standing to the credit of the Account.

Note: An Appropriation Act provides for amounts to be credited to a special account if any of the purposes of the special account is a purpose that is covered by an item in the Appropriation Act.

**100C Purposes of the Account**

- (1) The purposes of the Account are to make payments:
  - (a) to further the objects of this Act (as set out in section 3); and
  - (b) without limiting paragraph (a):
    - (i) to enable the Director to perform functions under this Act and the regulations; and
    - (ii) to enable the Director to make payments, on behalf of the Commonwealth, under Part 3A; and
  - (c) to enable the Commonwealth to participate:
    - (i) in the international harmonisation of regulatory controls or standards on industrial chemicals and other related activities; and
    - (ii) the development of international agreements and arrangements in relation to industrial chemicals; and
  - (d) otherwise in connection with the performance of the Director's functions under this Act or the regulations.

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- (2) Without limiting paragraph (1)(d), payments in connection with the performance of the Director's functions under this Act or the regulations include payments in connection with litigation, administrative review or other proceedings in relation to the performance of those functions.

## Part 5A—Information exchange under the Rotterdam Convention

### Division 1—Definitions

#### 100D Definitions

In this Part:

***Australia's designated national authority*** means the Department, agency or person who is Australia's designated national authority:

- (a) for the purposes of Article 4 of the Convention; and
- (b) for industrial chemicals.

***Convention*** means the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, done at Rotterdam on 10 September 1998, as amended by any amendment of the Convention that has entered into force for Australia.

Note: The text of the Convention is set out in Selected Documents on International Affairs Series 1998 No. 4619. In 2004 this was available in the Australian Treaties Library of the Department of Foreign Affairs and Trade, accessible through that Department's website.

If the Convention enters into force for Australia, the text of the Convention may be set out in the Australian Treaty Series (also available in that Library).

***notified industrial chemical*** means an industrial chemical that has at any time been the subject of a notification by Australia, or any other Party to the Convention, in any of the ways mentioned in paragraphs 1 and 2 of Article 5 of the Convention.

***Secretariat*** means the Secretariat established under Article 19 of the Convention.

## **Division 2—Notification of final regulatory action**

### **100E Notification of final regulatory action**

#### *Scope of section*

- (1) This section relates to Australia's obligations under paragraph 1 of Article 5 of the Convention.

#### *Director to notify Australia's designated national authority*

- (2) The Director must notify Australia's designated national authority in writing if the Director is satisfied that the Commonwealth has one or more laws banning or severely restricting the use of an industrial chemical in Australia.
- (3) The Director must also notify Australia's designated national authority in writing if the Director is satisfied that both of the following apply:
- (a) one or more of the following:
    - (i) a State;
    - (ii) the Australian Capital Territory;
    - (iii) the Northern Territory;have one or more laws banning or severely restricting the use of an industrial chemical in their jurisdiction;
  - (b) the law or those laws have the effect of banning or severely restricting the use of the industrial chemical in Australia.
- (4) A notification under subsection (2) or (3) must:
- (a) specify the industrial chemical; and
  - (b) specify the relevant provisions of the law or those laws; and
  - (c) contain the information set out in Annex 1 to the Convention to the extent that it is available; and
  - (d) occur as soon as practicable after the Director is so satisfied.

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*Australia's designated national authority to notify Secretariat*

- (5) Australia's designated national authority must then give the Secretariat written notice of the information set out in the Director's notification.
- (6) Australia's designated national authority must do so as soon as possible, but no later than 90 days, after the first day on which all of the relevant provisions of the law or those laws are in force.

*Director to make information available in the Chemical Gazette*

- (7) The Director must publish in the Chemical Gazette a notice setting out the information referred to in paragraphs (4)(a) and (b). The Director must do so as soon as practicable after the Director's notification.
- (8) The Director may also publish in that Gazette a notice setting out all or any of the information referred to in paragraph (4)(c).

### **Division 3—Exchange of certain information about industrial chemicals**

#### **100F Exchange of certain information about industrial chemicals**

*Scope of section*

- (1) This section relates to Australia's obligations under paragraph 1(a) of Article 14 of the Convention.

*Director to give information to Australia's designated national authority*

- (2) The Director must, as soon as practicable after 1 February in each year, give Australia's designated national authority such information of the kind mentioned in paragraph 1(a) of Article 14 of the Convention, as the Director considers appropriate, about a notified industrial chemical that was obtained during the 12 months ending on that date.

*Australia's designated national authority to give information to Secretariat etc.*

- (3) Australia's designated national authority must then give the Secretariat the information as soon as practicable after receiving it.
- (4) Australia's designated national authority may also give a country that is a Party to the Convention, or the appropriate authority of such a country, all or any of that information.

## Division 4—Information gathering

### 100G Director may obtain information and documents

#### *Making of request*

- (1) If the Director believes on reasonable grounds:
  - (a) that a person has particular information or a particular document; and
  - (b) that it is necessary to obtain the information or document to allow Australia to comply with its obligations under the Convention;the Director may request the person to give the information, or produce the document, to the Director.

#### *Form of request*

- (2) A request given to a person under subsection (1) must:
  - (a) be made in writing; and
  - (b) state what information the person must give, or what document the person must produce, to the Director; and
  - (c) specify the day on or before which the person must give the information or produce the document (which must be a day at least 14 days after the day on which the Director makes the request); and
  - (d) specify how the person is to give the information, or produce the document, to the Director; and
  - (e) contain a statement to the effect that a failure to comply with the request is an offence.

#### *Offence*

- (3) A person commits an offence if the person fails to comply with a request given to the person under subsection (1).

Penalty: 60 penalty units.



### **100H Self-incrimination**

- (1) An individual is not excused from giving information or producing a document under section 100G on the ground that the information or the production of the document might tend to incriminate the individual or expose the individual to a penalty.
- (2) However:
  - (a) the information given or the document produced; or
  - (b) giving the information or producing the document; or
  - (c) any information, document or thing obtained as a direct or indirect consequence of giving the information or producing the document;  
is not admissible in evidence against the individual in criminal proceedings other than:
    - (d) proceedings for an offence against subsection 100G(3); or
    - (e) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this Division.

### **100J Copies of documents**

The Director may inspect a document produced under section 100G and may make and retain copies of, or take and retain extracts from, such a document.

### **100K Director may retain documents**

- (1) The Director may take, and retain for as long as is necessary, possession of a document produced under section 100G.
- (2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Director to be a true copy.
- (3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.

**Part 5A** Information exchange under the Rotterdam Convention

**Division 4** Information gathering

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- (4) Until a certified copy is supplied, the Director must, at such times and places as the Director thinks appropriate, permit the person otherwise entitled to possession of the document, or a person authorised by that person, to inspect and make copies of, or take extracts from, the document.

## **Part 6—Miscellaneous**

### **101 Legal proceedings not to lie**

No action or other proceeding lies against the Commonwealth or an officer in respect of any loss incurred, or any damage suffered, because of reliance on an assessment made or a report prepared under this Act.

### **102 Application for review**

- (1) Subject to the *Administrative Appeals Tribunal Act 1975*, an application may be made to the Tribunal for review of:
  - (a) a decision by the Minister for the purposes of subsection 30(1), (3) or (5), 31A(3), 31B(3), 44(5), 51(1), 57(6), 61(2), 67(1), 68(6) or 68A(5); or
  - (b) a decision by the Director for the purposes of subsection 14(4), 17(4), 18A(2) or 19(7), 20AA(6) or 21H(1) or (2), section 21L or subsection 21U(3), 21W(3), (4) or (6), 22F(4), 22H(5) or (6), section 22J, subsection 24(1), (3) or (4), 27(1), (2) or (4), 28(2), 30A(3) or 30C(1), section 33C, paragraph 37(2)(b), subsection 40(6), paragraph 40F(3)(b) or 44(1)(d) or (2)(b), subsection 58(3) or 60E(5), 65(1) or (2), 69(1), 73(6) or 75(1), paragraph 79(a) or subsection 80QA(1) or 80QC(1) or (3); or
  - (c) the condition of use to which a controlled use permit is subject under subsection 22H(1); or
  - (d) a decision by the Director under section 13A to include or vary particulars in the Inventory in respect of a chemical; or
  - (e) a final decision by the Director under subsection 15AA(7).
- (1A) A person may not make an application for review under paragraph (1)(d) in respect of a decision to include or vary particulars in the Inventory in respect of a chemical if:

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- (a) the person could have made or did make an application in respect of a refusal under paragraph 37(2)(b) to vary an assessment report about the chemical; and
- (b) the variation sought by the person related to recommendations in the report that were the same as or similar to the particulars.

Note: For example, a person applies for review of a refusal to vary recommendations in an assessment report relating to conditions of use for a particular chemical. Under subsection (1A), the person is not entitled to apply for review of a decision to include the same or similar conditions of use for the chemical in the Inventory.

- (2) In subsections (1) and (1A):

*decision* has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

### 103 Statement to accompany notice of decisions

- (1) Where the Minister or the Director makes a decision of a kind referred to in subsection 102(1) and gives to a person whose interests are affected by the decision notice in writing of the decision, that notice is to include a statement to the effect that:
  - (a) subject to the *Administrative Appeals Tribunal Act 1975*, application may be made by or on behalf of that person to the Administrative Appeals Tribunal for review of that decision; and
  - (b) except where subsection 28(4) of that Act applies, application may be made in accordance with section 28 of that Act by or on behalf of that person for a statement in writing setting out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the decision.
- (2) Any contravention of subsection (1) in relation to a decision does not affect the validity of the decision.

**104 Delegation by Minister**

The Minister may by signed instrument delegate to:

- (a) the holder of an office established by an Act; or
- (b) the person holding or performing the duties of the office of Secretary of the Department; or
- (c) an SES employee, or acting SES employee, in the Department;

all or any of the Minister's functions or powers under this Act, other than those under sections 30, 41 and 43, subsections 61(2) and 67(1) and section 105.

**104A Delegation by Director**

The Director may, by signed instrument, delegate to a person:

- (a) whose classification level appears in Group 7 or 8 of Schedule 1 to the Classification Rules under the *Public Service Act 1999*; or
- (b) who is acting in a position usually occupied by a person with a classification level of the kind mentioned in paragraph (a);

all or any of the Director's functions or powers under this Act, other than those under subsection 14(4), 17(4) or 19(6) or (7), section 15AA, 15AB, 24 or 30A, subsection 37(2), section 38, 44, 50B, 60E or 60F or this section.

**105 Variation of Schedule**

- (1) The Minister may, by legislative instrument, declare that the Schedule is to be taken to be amended in a manner specified in the instrument, and that declaration has effect accordingly.
- (2) In addition to the requirement under the *Legislation Act 2003* for the instrument to be registered, a copy of the instrument must be published in the Chemical Gazette. However, failure to publish a copy does not affect the validity or enforceability of the instrument.

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- (4) The Minister is to cause all necessary action to be taken to ensure that, where the Schedule is taken to be amended by a declaration in force under subsection (1), a copy of the Schedule as taken to be amended is available for inspection by the public at the prescribed places at the prescribed times, and on payment of the prescribed fee (if any).

**106 International agreements or arrangements on movements of industrial chemicals into or out of Australia**

- (1) If an industrial chemical:
- (a) is the subject of a prescribed international agreement to which Australia is a party; or
  - (b) is the subject of a prescribed international arrangement that provides for countries to ban, restrict or otherwise regulate the introduction or export of the chemical for the purposes of protecting the environment, public health or occupational health and safety;

the regulations may prohibit the introduction or export of the chemical, either absolutely or subject to such conditions or restrictions as are prescribed.

- (2) A regulation for the purposes of subsection (1) must not be made unless:
- (a) the Director has published in the Chemical Gazette a notice:
    - (i) identifying the agreement or arrangement; and
    - (ii) listing the name or names by which the chemical is known to the public; and
    - (iii) requiring all persons who introduce the chemical into, or export the chemical from, Australia to give to the Director information in the approved form about movements of the chemical into or out of Australia; and
  - (b) a period of 30 days has elapsed since the notice was published.
- (3) The Minister may inform a country, the appropriate authority of a country or a relevant international organisation regarding

movements into or out of Australia of a chemical specified in regulations made for the purposes of subsection (1).

- (4) The Minister may give information under subsection (3) in such terms and on such conditions as the Minister thinks fit, having regard to:
- (a) the requirements of the relevant international agreement or arrangement; and
  - (b) the interest of any person in maintaining confidentiality in relation to movements of the chemical.
- (5) A person who introduces or exports an industrial chemical in contravention of a regulation made for the purposes of subsection (1) or of a condition or restriction prescribed by such a regulation, commits an offence punishable on conviction by a fine not exceeding 300 penalty units.
- (6) Subsection (5) does not apply if the person has a reasonable excuse.
- (7) For the purposes of an offence against subsection (5), strict liability applies to the physical element, that the introduction or exportation of the industrial chemical is in contravention of a regulation or condition as mentioned in that subsection.

Note: A defendant bears an evidential burden in relation to the matter in subsection (6) (see subsection 13.3(3) of the *Criminal Code*).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

### **107 Chemical Gazette**

The Director must take all necessary action to ensure that a copy of each Chemical Gazette that contains a notice under this Act is available for inspection by the public at the prescribed places at the prescribed times.

### **108 Annual report**

The annual report prepared by the Secretary of the Department and given to the Minister under section 46 of the *Public Governance*,

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*Performance and Accountability Act 2013* for a period must include a report on the operation of this Act during the period.

**109 Conduct by employees or agents**

- (3) Where it is necessary to establish, for the purposes of this Act or the regulations, the state of mind of a person other than a body corporate in relation to particular conduct, it is sufficient to show:
- (a) that the conduct was engaged in by an employee or agent of the person within the scope of his or her actual or apparent authority; and
  - (b) that the employee or agent had the state of mind.
- (4) Any conduct engaged in on behalf of a person other than a body corporate by an employee or agent of the person within the scope of his or her apparent authority is to be taken, for the purposes of this Act and the regulations, to have been engaged in also by the first-mentioned person unless the first-mentioned person establishes that the first-mentioned person took reasonable precautions and exercised due diligence to avoid the conduct.
- (5) Where:
- (a) a person other than a body corporate is convicted of an offence; and
  - (b) the person would not have been convicted of the offence if subsections (3) and (4) had not been enacted;
- the person is not liable to be punished by imprisonment for that offence.
- (6) A reference in subsection (3) to the state of mind of a person includes a reference to:
- (a) the knowledge, intention, opinion, belief or purpose of the person; and
  - (b) the person's reasons for the intention, opinion, belief or purpose.
- (8) A reference in this section to engaging in conduct includes a reference to failing or refusing to engage in conduct.



**110 Fees**

- (1) Regulations may prescribe fees, or a method of calculating fees to be paid to the Commonwealth in respect of each of the following:
- (aa) an application under section 13B that is made after 28 days of the giving of an assessment certificate;
    - (a) an application under subsection 14(3);
    - (b) an application under subsection 17(3) to be the holder of a confidence;
  - (caaa) a statement under subsection 19(4);
    - (ca) an application under section 21B for a commercial evaluation permit;
    - (cb) an application under section 21B for a renewal of a commercial evaluation permit;
    - (cc) an application under section 21R for a low volume permit;
    - (cd) an application under section 21R for a renewal of a low volume permit;
    - (ce) an application under section 22B for a controlled use permit;
    - (cf) an application under section 22B for a renewal of a controlled use permit;
    - (e) an application under section 23 for an assessment certificate, not being an application to which paragraph 41(3)(d) or subsection 44(1) applies;
    - (ea) an application under section 23A for a self-assessed assessment certificate;
    - (f) an application under section 24 to vary the requirements of section 23;
    - (fa) an application under section 21AAA that information be treated as exempt information;
    - (g) an application under section 21P, 21ZB, 22O, 25, 29, 30A, 40D, 42, 45, 50, 60, 66 or 89 that information be treated as exempt information;
    - (h) an application under section 30 for an introduction permit;
    - (ha) an application under section 30A for an early introduction permit;

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- (j) an application under section 37 for the variation of a recommendation;
  - (k) an application under section 40 for the variation of a recommendation;
  - (ka) an application under section 40A for extension of an original assessment certificate;
  - (m) an application for an assessment certificate, being an application to which paragraph 41(3)(d) applies;
  - (n) a nomination under subsection 43(3) of a foreign scheme;
  - (p) an application for an assessment certificate, being an application to which subsection 44(1) applies;
  - (s) secondary notification required by section 65;
  - (u) an inquiry under section 79;
  - (ua) an application for registration under section 80F;
  - (ub) an application for renewal of registration under subsection 80KA(1) or 80KB(2);
  - (v) if a regulation made for the purposes of subsection 106(1) provides for approvals to be given in relation to the introduction or export of an industrial chemical that is subject to the Convention (within the meaning of Part 5A)—an application for the approval.
- (1A) For the purposes of paragraph (1)(v), the regulations may prescribe different fees, or different methods of calculating fees, for an application for an approval in respect of different countries or different classes of countries.
- (1B) Subsection (1A) does not limit subsection 33(3A) of the *Acts Interpretation Act 1901*.
- Note: For example, subsection 33(3A) of the *Acts Interpretation Act 1901* allows regulations to prescribe different fees for applications in relation to different chemicals, or different classes of chemicals.
- (2) Fees are due and payable in such manner and at such time or times as are prescribed.

- (3) Where a fee that is required to be paid at the time of making an application or inquiry is not so paid, the application or inquiry is to be taken not to have been duly made.
- (4) Where a fee that is required to be paid by a particular date after the making of an application or inquiry is not paid by that date, the application or inquiry is to be taken to have been withdrawn at that date, but the withdrawal of the application or inquiry does not affect any liability for the payment of any fee in respect of work done in respect of the application or inquiry before it is taken to have been so withdrawn.
- (5) The regulations may prescribe circumstances in which the Director may, on behalf of the Commonwealth, wholly or partly waive or remit fees that would otherwise be payable under this section.
- (6) A prescribed fee is not to be such as to amount to taxation.

**110A Late renewal penalties**

- (1) Regulations may prescribe late renewal penalties, or a method of calculating late renewal penalties, to be paid to the Commonwealth under section 80KB in respect of late renewal applications.
- (2) A late renewal penalty is due and payable in the manner prescribed.
- (3) If a late renewal penalty is not paid at the time the late renewal application is made, the application is to be taken not to have been duly made.
- (4) The regulations may prescribe circumstances in which the Director may, on behalf of the Commonwealth, wholly or partly waive or remit late renewal penalties that would otherwise be payable under this section.

**110B Approved forms may be electronic**

A form approved by the Director for the purposes of this Act may be an electronic form.

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**110C Chemical Gazette to be publicly available**

The Director must ensure that the Chemical Gazette is made publicly available.

**111 Regulations**

The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and, in particular:

- (c) declaring that a specified new industrial chemical may be introduced even though the person introducing it does not hold an assessment certificate in force in relation to it, if the chemical is:
  - (i) a new industrial chemical that is similar to a listed industrial chemical or to an industrial chemical that has been assessed under Part 3; or
  - (ii) a substance or mixture of substances of a kind referred to in paragraph (f) of the definition of ***agricultural chemical*** in subsection 7(2); or
  - (iii) a substance or mixture of substances of a kind that is declared by regulations made under the *Agricultural and Veterinary Chemicals Act 1988* not to be a veterinary chemical product for the purposes of that Act; and
- (d) prescribing the matters to be included in arrangements under section 41; and
- (e) prescribing penalties not exceeding, in the case of a natural person, a fine of 10 penalty units and, in the case of a body corporate, a fine of 50 penalty units for offences under the regulations.

## **Schedule—Matters to be dealt with in notification statement about chemical**

Section 23

### **Part A**

1. Identification of which of subsections 23(4) to (9) applies to the chemical.
2. Summary of the chemical's health effects and environmental effects.
3. Summary of how the chemical meets the definition of hazardous chemical.
4. Details of any notification made in relation to the chemical in a country other than Australia.
5. Bibliography of the publications referred to in the statement.

## **Part B**

1. The following matters identifying the chemical, and, in the case of a synthetic polymer, each other chemical that is one of its constituent monomers:
  - (a) the chemical name of the chemical, that is to say:
    - (i) in the case of a pure chemical—the name for it to be used in the Australian Inventory of Chemical Substances, that is the chemical abstracts (CA) preferred Index Name, or, if such a name is not available, the name for it to be used by the International Union for Pure and Applied Chemistry; or
    - (ii) in any other case—as complete a description of the chemical as is practicable;  
including, in the case of a biopolymer, a description of the biological source of the biopolymer;
  - (b) the name or names by which the chemical is known or identified in the scientific or technical literature;
  - (c) the name under which the chemical has been, or will be, marketed;
  - (d) the number assigned to the chemical by the service known as the Chemical Abstract Service;
  - (e) the chemical's molecular formula and structural formula;
  - (f) the chemical's gram-molecular weight;
  - (g) copies of spectra which have been measured to confirm the chemical's structural formula.
2. The following matters showing the composition of the chemical:
  - (a) the degree of purity of the chemical, that is to say the weight-percentage of a sample of the chemical that is not an impurity;
  - (b) the weight-percentage of a sample of the chemical that is a known or reasonably anticipated impurity, including an isomer or a by-product, of a hazardous or toxic nature and details of the toxic properties and hazardous properties of the impurities;

- (c) the weight-percentage of a sample of the chemical that is a non-hazardous impurity of not less than 1% by weight of the sample;
  - (d) the weight percentage of a sample of the chemical that is an additive or adjuvant and the identity of the additives or adjuvants.
- 3. The proposed uses of the chemical in descending order of importance and the approximate percentage of the quantity of the chemical to be introduced by the notifier that is to have each use.
- 4. The physical state and the appearance (being the colour and form) of the chemical at 20° celsius and 101.3 kPa and a description of the odour (including the odour threshold) and volatility of the chemical.
- 5. The estimated quantity, in tonnes per year, or, in a range of tonnes per year of 1 to 10, 10 to 100, 100 to 1,000 and over 1,000, of the chemical proposed to be:
  - (a) imported into Australia by the notifier in each of the next 5 years; and
  - (b) manufactured in Australia by the notifier in each of those years.
- 6. The following matters affecting occupational health and safety:
  - (a) data about occupational exposure factors, that is to say:
    - (i) the categories of workers to be involved in working with the chemical; and
    - (ii) the nature of the work to be done by them; and
    - (iii) the safety procedures to be observed when handling the chemical; and
    - (iv) a brief description of the training and education in safe working practices to be given to those workers; and
    - (v) data about the occurrence of work related injuries and diseases affecting workers dealing with the chemical; and
    - (vi) any other data relating to occupational hazard associated with the chemical; and

- (b) a list of health conditions (if any) which indicate that the notified chemical should not be used; and
  - (c) particulars of procedures for the atmospheric monitoring and biological monitoring of the effects of the chemical; and
  - (d) information held, or reasonably obtainable, by the notifier about studies and observations of health problems or adverse symptoms occurring in humans exposed to the substance.
7. The following matters affecting the impact of the chemical on the environment:
- (a) where the chemical is to be manufactured or reformulated in Australia:
    - (i) the site of the manufacture or reformulation; and
    - (ii) the processes to be carried out at that site; and
    - (iii) information about the release of chemicals into the environment likely to occur at that site;
  - (b) in respect of each use of the chemical, information about the situations in which the chemical will be released into the environment and the quantity and concentration of the release;
  - (c) the requirements for the safe storage of the chemical;
  - (d) a description of all procedures for the disposal of the chemical and the identity and hazards of any degradation products resulting from the disposal.
8. A description of the ways in which the public might be exposed to the chemical based on its proposed uses and its potential release in the environment.
9. The following physical and chemical data about the chemical:
- (a) whichever of the melting point, boiling point or freezing point of the chemical is appropriate;
  - (b) the chemical's density in  $\text{kg/m}^3$ , and:
    - (i) in the case of a gas—its specific gravity where air = 1; and
    - (ii) in the case of a liquid—its liquid density and vapour density;
  - (c) the chemical's vapour pressure in kilopascals at 25°C;



- (d) the chemical's solubility in grams per litre in water at 20°C;
- (e) in the case of a chemical whose water solubility exceeds 10<sup>-6</sup> gms/litre—the degrees of hydrolysis at 25°C at pH values of 4-9 and 1-2;
- (f) in the case of a chemical that dissolves in water without dissociation or association and which is not surface-active—the partition coefficient (n-octanol/water) at 20°C expressed as log P<sub>ow</sub>;
- (g) information about the adsorption and desorption of the chemical to and from standard soils;
- (h) in the case of a chemical that dissociates in water—the dissociation constant expressed as pKa determined by a specified manner;
- (j)
  - (i) in the case of a chemical that is a solid—the mean particle size and size range including the respirable fraction (1-10 microns); or
  - (ii) in the case of a chemical that is fibrous—fibre length and length range;
- (k) the flash point in °C of the chemical;
- (m) the degree of the chemical's flammability, including:
  - (i) for gases and vapours—the upper and lower limits of flammability in air; and
  - (ia) for solids—the ability to propagate combustion; and
  - (ii) details of the nature and identity of toxic and hazardous products of the chemical's combustion;
- (n) the minimum temperature for the chemical's auto ignition;
- (p) the chemical's explosive properties, including the chemical's potential (if any) to detonate as the result of heat, shock or friction;
- (q) information about the stability and reactivity of the chemical, including:
  - (ia) the chemical's oxidising properties; and
  - (i) particulars of conditions constituting the chemical's instability; and
  - (ii) information about the products of the chemical's decomposition and their hazards

being data obtained from tests:

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**Schedule** Matters to be dealt with in notification statement about chemical  
**Part B**

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- (r) of samples of the chemical of a specified purity as described in paragraph 2(a); and
  - (s) by a specified authority or organisation; and
  - (t) conducted under specified conditions; and
  - (u) conducted in accordance with the principles of good laboratory practice.
10. Identification of the analytical methods for the detection and determination of the chemical.
  11. Particulars of the labels in the presented form to be fixed to products consisting of or containing the chemical.
  12. Particulars of the proposed Safety Data Sheet in the prescribed form for the chemical and for all commercially available products, or substances used in the workplace, containing the chemical.
  13. (a) a full description of procedures for making the chemical harmless in an emergency in the workplace; and  
(b) a full description of procedures for making the chemical harmless in an emergency outside the workplace.

## Part C

The following data about the effects of the chemical:

- (a) the chemical's toxic effects after a single oral administration;
- (b) the chemical's toxic effects after a single dermal exposure;
- (c) the chemical's toxic effects on inhalation;
- (d) in the case of a chemical that does not have predictable corrosive properties—the extent of dermal irritation caused by the chemical;
- (e) in the case of a chemical that does not have predictable corrosive properties—the extent of eye irritation caused by the chemical;
- (f) any sensitising potential of the chemical;
- (g) the toxic effects of the chemical on administration for a period of 28 days;
- (h) any induction by the chemical of point mutations in microbial test systems;
- (j) any production by the chemical of genotoxic damage in a suitable *in vivo* test;
- (k) any production by the chemical of chromosome damage in mammalian cells grown *in vitro*;
- (m) the toxicity of the chemical to fish after their continuous exposure for 4 days to a series of concentrations of the chemical in water assessed by the test known as the Fish Acute Toxicity Test;
- (n) the toxicity of the chemical to aquatic invertebrates shown by the effects of the chemical on daphnids exposed to a series of concentrations of the chemical in water assessed by the test known as *Daphnia* sp, Acute Immobilisation Test and Reproduction Test;
- (p) the effects of the chemical on algae exposed for at least 3 days to a series of concentrations of the chemical in water assessed by the test known as Algal Growth Inhibition Test;
- (q) the tendency of the chemical to degrade assessed using the test known as a Ready Biodegradability Test;
- (r) the potential of the chemical to bioaccumulate in both aquatic and land environments;

**Schedule** Matters to be dealt with in notification statement about chemical  
**Part C**

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being data obtained:

- (s) by specified methods; and
- (t) from specified raw data.

## **Part D**

1. The weight-percentage of the total ingredients for the polymer that is represented by each ingredient.
2. The number-average molecular weight of the polymer or, where polymers of more than one molecular weight composition are to be introduced, the lowest number-average molecular weight.
3. The weight-percentage of low molecular weight species of the polymer on its introduction represented by each residual monomer.
4. The maximum weight percentage of low molecular weight species of the polymer below 500 daltons and below 1,000 daltons.
5. Information about all products resulting from the degradation, decomposition or depolymerisation of the polymer.
6. Information on the natural loss of monomers, additives and impurities from the polymer.

## **Part E**

The following data about the effects of the chemical:

- (a) the chemical's photostability;
- (b) the chemical's phototoxicity;
- (c) the chemical's photosensitisation;
- (d) the chemical's bioavailability via the oral and dermal routes;
- (e) the chemical's toxic effects on administration for a period of 3 to 6 months, by the oral and dermal routes;
- (f) the chemical's photomutagenicity;
- (g) the chemical's toxic effects on reproduction, including toxicity to male fertility;
- (h) the carcinogenic potential of the chemical, including photocarcinogenicity;
- (i) the potential of the chemical to interact with another chemical used as an ultraviolet filter in a cosmetic to be applied to the skin;

being data obtained:

- (j) by specified methods; and
- (k) from specified raw data.

## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

## Endnotes

### Endnote 1—About the endnotes

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be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.



**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnotes

### Endnote 3—Legislation history

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### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Industrial Chemicals (Notification and Assessment) Act 1989	8, 1990	17 Jan 1990	ss. 1 and 2: Royal Assent Remainder: 17 July 1990	
Industrial Relations Legislation Amendment Act (No. 2) 1991	62, 1991	30 May 1991	ss. 1 and 2: Royal Assent Schedule (Part 1 [in part] and Part 2): 2 July 1991 ( <i>see Gazette</i> 1991, No. S182) Schedule (Part 3 [in part]): 1 Aug 1991 ( <i>see Gazette</i> 1991, No. S210) Schedule (Part 5): 1 Sept 1991 ( <i>see Gazette</i> 1991, No. S239) Remainder: 30 Nov 1991	—
Industrial Relations Legislation Amendment Act 1991	122, 1991	27 June 1991	ss. 4(1), 10(b) and 15–20: 1 Dec 1988 ss. 28(b)–(e), 30 and 31: 10 Dec 1991 ( <i>see Gazette</i> 1991, No. S332) Remainder: Royal Assent	s. 31(2)
Industrial Relations Legislation Amendment Act (No. 3) 1991	7, 1992	15 Jan 1992	Part 2 (ss. 3–27): 22 June 1992 ( <i>see Gazette</i> 1992, No. S159) Part 5 (ss. 38, 39): 8 Apr 1992 ( <i>see Gazette</i> 1992, No. S92) Remainder: Royal Assent	—

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Industrial Chemicals (Notification and Assessment) Amendment Act 1992	102, 1992	30 June 1992	4 Aug 1992 (gaz 1992, No GN30)	—
Industrial Chemicals (Notification and Assessment) Amendment Act (No. 2) 1992	214, 1992	24 Dec 1992	s 1 and 2: Royal Assent Remainder: 1 Mar 1993 (gaz 1993, No S67)	s 5(2)
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 2 (item 66): 1 March 1993 (s 2(2) and gaz 1993, No S67)	—
Industrial Chemicals (Notification and Assessment) Act 1997	99, 1997	30 June 1997	Sch 1 (items 1, 7, 8, 12, 15, 17–22, 24, 25, 27–29, 33, 35, 36, 51, 57, 58, 62, 81–83, 87, 89, 96–98, 102, 105) and Sch 2: 9 July 1997 (gaz 1997, No S278) Sch 1 (items 3–5, 9, 10, 46, 52, 53, 86, 88, 94, 95): 30 Dec 1997 Remainder: Royal Assent Sch 1 (items 16, 34, 37–41, 64–80, 84, 88, 93, 103): 7 Aug 1997 (gaz 1997, No S316)	Sch. 1 (items 100–106)
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (items 535–543): 5 Dec 1999 (s 2(1), (2) and gaz 1999, No S584)	—

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## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000	137, 2000	24 Nov 2000	Sch 2 (items 243, 418, 419); 24 May 2001 (s 2(3))	Sch 2 (items 418, 419)
Gene Technology (Consequential Amendments) Act 2000	170, 2000	21 Dec 2000	22 June 2001 (s 2)	—
Australia New Zealand Food Authority Amendment Act 2001	81, 2001	10 July 2001	Sch 3 (items 6, 7): 1 July 2002 (s 2(2) and gaz 2002, No GN30)	—
Employment, Workplace Relations and Small Business Legislation Amendment (Application of Criminal Code) Act 2001	142, 2001	1 Oct 2001	s 4 and Sch 1 (items 15–57): 2 Oct 2001 (s 2(1))	s 4
<b>as amended by</b> Workplace Relations Legislation Amendment Act 2002	127, 2002	11 Dec 2002	Sch 3 (items 15–17): 2 Oct 2001 (s 2(1) item 8)	—
Safety, Rehabilitation and Compensation and Other Legislation Amendment Act 2001	144, 2001	1 Oct 2001	Sch 1 (items 1–4, 8–11, 15–23, 25, 26, 31–33, 35–43, 45, 49–54, 56): 1 Oct 2001 (s 2(2)) Sch 1 (items 5–7): 1 Apr 2002 (s 2(7)) Sch 1 (items 12–14, 24, 27–30, 34, 44, 46–48, 55, 57): 29 Oct 2001 (s 2(3))	Sch 1 (items 7, 11, 23, 32, 41, 43, 50)

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
<b>as amended by</b>				
Statute Law Revision Act 2006	9, 2006	23 Mar 2006	Sch 2 (item 22): 1 Oct 2001 (s 2(1) item 37)	—
Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001	159, 2001	1 Oct 2001	29 Oct 2001 (s 2)	Sch 1 (item 97)
Therapeutic Goods and Other Legislation Amendment Act 2002	56, 2002	3 July 2002	Sch 2 (items 1–9): 3 July 2002 (s 2(1) item 1)	—
Industrial Chemicals (Notification and Assessment) Amendment Act 2003	74, 2003	15 July 2003	15 July 2003 (s 2)	Sch 1 (items 22, 23)
Industrial Chemicals (Notification and Assessment) Amendment (Rotterdam Convention) Act 2004	14, 2004	11 Mar 2004	Sch 1: 18 Aug 2004 (s 2(1) item 2) Remainder: 11 Mar 2004 (s 2(1) item 1)	Sch 1 (item 2)
Industrial Chemicals (Notification and Assessment) Amendment (Low Regulatory Concern Chemicals) Act 2004	110, 2004	13 July 2004	Sch 1: 9 Aug 2004 (s 2(1) item 2 and gaz 2004, No S320) Remainder: 13 July 2004 (s 2(1) item 1)	Sch 1 (items 185–194)
Financial Framework Legislation Amendment Act 2005	8, 2005	22 Feb 2005	s 4 and Sch 1 (items 159, 496): 22 Feb 2005 (s 2(1) items 1, 2)	s 4 and Sch 1 (item 496)

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### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
National Occupational Health and Safety Commission (Repeal, Consequential and Transitional Provisions) Act 2005	135, 2005	15 Nov 2005	Sch 1 and 2: 1 Jan 2006 (s 2(1) item 2) Remainder: 15 Nov 2005 (s 2(1) item 1)	—
Financial Framework Legislation Amendment Act (No. 1) 2006	30, 2006	6 Apr 2006	Sch 1 (items 29, 30): 7 Apr 2006 (s 2(1) item 2)	—
Industrial Chemicals (Notification and Assessment) Amendment (Cosmetics) Act 2007	134, 2007	20 Aug 2007	Sch 1 and 2: 17 Sept 2007 (s 2(1) item 2) Remainder: 20 Aug 2007 (s 2(1) item 1)	Sch 2 (items 9, 16, 19, 26, 34)
Statute Stocktake (Regulatory and Other Laws) Act 2009	111, 2009	16 Nov 2009	Sch 1 (items 18–22): 17 Nov 2009 (s 2(1) item 2)	Sch 1 (item 22)
Statute Law Revision Act 2010	8, 2010	1 Mar 2010	Sch 5 (item 61): 1 Mar 2010 (s 2(1) item 35)	—
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Sch 6 (items 54, 55) and Sch 7 (item 74): 19 Apr 2011 (s 2(1) items 15, 18)	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (items 702–707) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 5, 12)	Sch 3 (items 10, 11)
Industrial Chemicals (Notification and Assessment) Amendment (Inventory) Act 2011	103, 2011	26 Sept 2011	27 Sept 2011 (s 2)	Sch 1 (items 56–58)

## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Statute Law Revision Act 2012	136, 2012	22 Sept 2012	Sch 1 (items 69–79): 22 Sept 2012 (s 2(1) item 2)	—
Industrial Chemicals (Notification and Assessment) Amendment Act 2012	147, 2012	6 Nov 2012	Sch 1: 1 July 2013 (s 2(1) item 2) Sch 2 (items 2–10): 6 Nov 2012 (s 2(1) item 3)	Sch 1 (item 14) and Sch 2 (item 10)
Health and Other Legislation Amendment Act 2013	111, 2013	29 June 2013	Sch 1 (item 23): 30 June 2013 (s 2(1) item 4)	—
Statute Law Revision Act (No. 1) 2014	31, 2014	27 May 2014	Sch 1 (item 45): 24 June 2014 (s 2(1) item 2)	—
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 9 (items 163–165) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14
<b>as amended by</b>				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7
<b>as amended by</b>				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—

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## Endnotes

### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Statute Law Revision Act (No. 1) 2015	5, 2015	25 Feb 2015	Sch 1 (item 19) and Sch 3 (items 98–101): 25 Mar 2015 (s 2(1) items 2, 10)	—
Acts and Instruments (Framework Reform) Act 2015	10, 2015	5 Mar 2015	Sch 3 (items 238, 239, 348, 349): 5 Mar 2016 (s 2(1) item 2)	Sch 3 (items 348, 349)
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 6 (items 25, 26) and Sch 7: 14 Apr 2015 (s 2)	Sch 6 (item 26) and Sch 7
<b>as amended by</b>				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Customs and Other Legislation Amendment (Australian Border Force) Act 2015	41, 2015	20 May 2015	Sch 5 (item 92) and Sch 9: 1 July 2015 (s 2(1) items 2, 7)	Sch 9
<b>as amended by</b>				
Australian Border Force Amendment (Protected Information) Act 2017	115, 2017	30 Oct 2017	Sch 1 (item 26): 1 July 2017 (s 2(1) item 2)	—



## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Norfolk Island Legislation Amendment Act 2015	59, 2015	26 May 2015	Sch 2 (item 227): 1 July 2016 (s 2(1) item 5) Sch 2 (items 356–396): 18 June 2015 (s 2(1) item 6)	Sch 2 (items 356–396)
<b>as amended by</b>				
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 2: 24 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sep 2015	Sch 1 (item 303): 5 Mar 2016 (s 2(1) item 2)	—
Statute Law Revision Act (No. 2) 2015	145, 2015	12 Nov 2015	Sch 1 (item 9): 10 Dec 2015 (s 2(1) item 2)	—
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 4 (items 1, 189, 400): 10 Mar 2016 (s 2(1) item 6)	—
Regulatory Powers (Standardisation Reform) Act 2017	124, 2017	6 Nov 2017	Sch 10: 6 Nov 2018 (s 2(1) item 3)	Sch 10 (items 9–13)
Industrial Chemicals (Notification and Assessment) Amendment Act 2019	14, 2019	12 Mar 2019	Sch 1: 3 Apr 2019 (s 2(1) item 2)	Sch 1 (items 9–12)

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## Endnotes

### Endnote 4—Amendment history

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
Title .....	am. No. 99, 1997; No. 134, 2007
<b>Part 1</b>	
s. 3 .....	rs. No. 134, 2007
s. 4 .....	rs. No. 99, 1997 am. No. 134, 2007
s. 5 .....	am No 7, 1992; No 102, 1992; No 214, 1992; No 99, 1997; No 146, 1999; No 170, 2000; No 144, 2001; No 56, 2002; No 110, 2004; No 134, 2007; No 111, 2009; No 5, 2011; No 103, 2011; No 136, 2012; No 147, 2012; No 124, 2017; No 14, 2019
s. 7 .....	am. No. 62, 1991; No. 99, 1997; No. 81, 2001
s. 7A.....	ad. No. 99, 1997
s. 9 .....	am No 59, 2015
s. 10AA.....	ad. No. 142, 2001
s. 10A.....	ad. No. 170, 2000
s. 10B.....	ad. No. 170, 2000
s. 10C.....	ad. No. 170, 2000
<b>Part 2</b>	
<b>Division 1</b>	
s. 11 .....	am. No. 214, 1992; No. 144, 2001; No. 110, 2004; No. 103, 2011
s. 12 .....	am. No. 214, 1992; No. 99, 1997; No. 110, 2004; No. 103, 2011
s. 13 .....	rep. No. 214, 1992 ad. No. 110, 2004
s. 13A.....	ad. No. 110, 2004
s. 13B.....	ad. No. 110, 2004
s. 14 .....	am. No. 99, 1997; No 110, 2004; No 31, 2014
s. 15A.....	ad. No. 110, 2004 am. No. 103, 2011
<b>Division 1A</b>	
Division 1A.....	ad. No. 103, 2011

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 15AA.....	ad. No. 103, 2011
s 15AB.....	ad. No. 103, 2011
<b>Division 2</b>	
s. 17.....	am. No. 99, 1997
s. 18.....	am. No. 110, 2004
s. 18A.....	ad. No. 99, 1997 am. No. 144, 2001; No. 110, 2004
s. 19.....	rs. No. 99, 1997; No. 144, 2001 am. No. 110, 2004
<b>Division 3</b>	
Division 3 heading.....	rs. No. 110, 2004
s. 20.....	rs. No. 214, 1992 am No 99, 1997; No 110, 2004
s. 20AA.....	ad. No. 99, 1997 am. No. 110, 2004
s. 20AB.....	ad. No. 99, 1997 am No. 110, 2004
Division 4.....	ad. No. 214, 1992 rep. No. 111, 2009
s 20A.....	ad No 214, 1992 rep No 111, 2009
s 20B.....	ad No 214, 1992 rep No 111, 2009
s 20C.....	ad No 214, 1992 rep No 111, 2009
s 20D.....	ad No 214, 1992 rep No 111, 2009
s 20E.....	ad No 214, 1992 rep No 111, 2009
s 20F.....	ad No 214, 1992 rep No 111, 2009

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s 20G.....	ad No 214, 1992 rep No 111, 2009
<b>Part 3</b>	
<b>Division 1</b>	
s 21 .....	am No 102, 1992; No 214, 1992; No 99, 1997; No 142, 2001 (as am by No 127, 2002); No 144, 2001; No 110, 2004; No 111, 2013; No 41, 2015; No 14, 2019
s. 21AA.....	ad. No. 110, 2004 am. No. 134, 2007
s. 21AAA.....	ad. No. 134, 2007
s. 21AB.....	ad. No. 110, 2004 am. No. 134, 2007
<b>Division 1A</b>	
Division 1A.....	ad. No. 102, 1992
s. 21A.....	ad. No. 102, 1992
s. 21B.....	ad. No. 102, 1992 am. No. 110, 2004
s. 21C.....	ad. No. 102, 1992
s. 21D.....	ad. No. 102, 1992 am. No. 99, 1997; No. 110, 2004; No. 147, 2012
s. 21E.....	ad. No. 102, 1992 am. No. 74, 2003; No. 110, 2004; No 136, 2012
s. 21F .....	ad. No. 102, 1992 am. No. 110, 2004 rs. No. 134, 2007
s. 21G.....	ad. No. 102, 1992 am. No. 110, 2004
s. 21H.....	ad. No. 102, 1992 am. No. 99, 1997; No. 110, 2004; No. 134, 2007; No 136, 2012
s. 21J.....	ad. No. 102, 1992 rs. No. 134, 2007

## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s. 21K.....	ad. No. 102, 1992
s. 21L.....	ad. No. 102, 1992 am. No. 142, 2001; No. 110, 2004; No. 136, 2012; No. 14, 2019
s. 21M.....	ad. No. 102, 1992
s. 21N.....	ad. No. 102, 1992 am. No. 110, 2004
s. 21P.....	ad. No. 102, 1992 am. No. 110, 2004
<b>Division 1B</b>	
Division 1B.....	ad. No. 214, 1992
s. 21Q.....	ad. No. 214, 1992 am. No. 110, 2004; No. 134, 2007
s. 21R.....	ad. No. 214, 1992 am. No. 110, 2004
s. 21S.....	ad. No. 214, 1992 am. No. 110, 2004; No. 134, 2007
s. 21SA.....	ad. No. 99, 1997 am. No. 110, 2004
s. 21T.....	ad. No. 214, 1992
s. 21U.....	ad. No. 214, 1992 am. No. 99, 1997; No. 110, 2004; No. 134, 2007
s. 21V.....	ad. No. 214, 1992
s. 21W.....	ad. No. 214, 1992 am. No. 142, 2001; No. 110, 2004; No. 134, 2007
s. 21X.....	ad. No. 214, 1992
s. 21Y.....	ad. No. 214, 1992 am. No. 134, 2007
s. 21Z.....	ad. No. 214, 1992
s. 21ZA.....	ad. No. 214, 1992
s. 21ZB.....	ad. No. 214, 1992 am. No. 110, 2004; No. 134, 2007

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s. 22 .....	rep. No. 214, 1992
<b>Division 1C</b>	
Division 1C.....	ad. No. 110, 2004
s 22A.....	ad No 110, 2004
s 22B.....	ad No 110, 2004
s. 22C.....	ad. No. 110, 2004 am. No. 134, 2007
s 22D.....	ad. No. 110, 2004
s 22E.....	ad. No. 110, 2004
s 22F.....	ad. No. 110, 2004
s 22G.....	ad. No. 110, 2004
s 22H.....	ad. No. 110, 2004
s 22I.....	ad. No. 110, 2004
s 22J.....	ad. No. 110, 2004
s 22K.....	ad. No. 110, 2004
s. 22L.....	ad. No. 110, 2004 am. No. 134, 2007
s 22M.....	ad No 110, 2004
s 22N.....	ad No 110, 2004
s. 22O.....	ad. No. 110, 2004 am. No. 134, 2007
<b>Division 2</b>	
s. 22P .....	ad. No. 110, 2004
s. 23 .....	am. Nos. 7 and 214, 1992; No. 110, 2004; No. 134, 2007; No. 103, 2011
s. 23A.....	ad. No. 110, 2004
s. 24A.....	ad. No. 214, 1992 am. No. 110, 2004
s 25 .....	am. No. 110, 2004
s 26 .....	am. No. 110, 2004
s 27 .....	am. No. 110, 2004
s 28 .....	am. No. 110, 2004

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 30 .....	am No 7, 1992; No 99, 1997 ed C40
s. 30A.....	ad. No. 99, 1997 am. No. 110, 2004; No. 134, 2007
s. 30AA.....	ad. No. 99, 1997
s. 30B.....	ad. No. 99, 1997
s. 30C.....	ad. No. 99, 1997 am. No. 142, 2001; No. 110, 2004
<b>Division 3</b>	
Division 3 heading.....	rs No 110, 2004
s. 31 .....	am. No. 214, 1992; No. 99, 1997; No. 144, 2001; No. 110, 2004
s 31A.....	ad No 110, 2004 am. No 103, 2011
s 31B.....	ad No 110, 2004 am. No 103, 2011
s. 32 .....	am. No. 99, 1997; No. 110, 2004
s. 33 .....	am. No. 214, 1992; No. 110, 2004; No. 147, 2012
s 33A.....	ad No 110, 2004
s 33B.....	ad No 110, 2004
s 33C.....	ad No 110, 2004
s. 34 .....	am. No. 214, 1992; No. 144, 2001; No. 103, 2011
s. 35 .....	am. No. 214, 1992; No. 99, 1997; No. 144, 2001 rep. No. 103, 2011
s. 36 .....	am. No. 214, 1992; No. 144, 2001 rs. No. 110, 2004 am. No. 103, 2011
s. 37 .....	am. No. 214, 1992; No. 144, 2001; No. 110, 2004; No. 103, 2011
s. 38 .....	am. No. 214, 1992; No. 99, 1997; No. 144, 2001; No. 110, 2004; No. 103, 2011
s. 39 .....	am. Nos. 7 and 214, 1992; No. 110, 2004
s. 40 .....	am. No. 214, 1992; No. 144, 2001; No. 103, 2011

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Division 3A</b>	
Division 3A.....	ad. No. 99, 1997
s. 40A.....	ad. No, 99, 1997 am. No. 110, 2004; No. 103, 2011
s 40B–40F.....	ad. No, 99, 1997
s. 40G.....	ad. No. 99, 1997 am. No. 144, 2001; No. 103, 2011
s. 40H.....	ad. No. 99, 1997 am. No. 110, 2004
s. 40J.....	ad. No. 99, 1997
<b>Division 3B</b>	
Division 3B.....	ad No 110, 2004
s 40K.....	ad No 110, 2004
s 40L.....	ad No 110, 2004
s 40M.....	ad No 110, 2004
s 40N.....	ad No 110, 2004 rep No 14, 2019
<b>Division 4</b>	
s. 41 .....	am. No. 110, 2004
s 43 .....	am No 99, 1997; No 5, 2015
s. 44 .....	am. No. 99, 1997; No. 110, 2004; No. 103, 2011
s 46 .....	am No 4, 2016
<b>Division 5</b>	
Division 5 heading.....	rs. No. 214, 1992
<b>Subdivision A</b>	
Subdivision A heading.....	ad. No, 99, 1997
s. 47 .....	am. Nos. 102 and 214, 1992; No. 43, 1996; No. 99, 1997 rs. No. 110, 2004
<b>Subdivision B</b>	
Subdivision B heading .....	ad. No. 99, 1997
s. 48 .....	rs. No. 99, 1997

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	am. No. 142, 2001
s. 49 .....	rep. No. 99, 1997
Heading to s. 50 .....	am. No. 99, 1997
s. 50 .....	am. No. 99, 1997
s. 50A .....	ad. No. 99, 1997
<b>Subdivision C</b>	
Subdivision C heading .....	ad. No. 99, 1997
s. 50B .....	ad. No. 99, 1997
s. 51 .....	rs No 99, 1997
s. 52 .....	rs No 99, 1997
s. 53 .....	rs No 99, 1997
s. 54 .....	am. No. 99, 1997
<b>Subdivision D</b>	
Subdivision D heading .....	ad. No. 99, 1997
s. 55 .....	am. No. 7, 1992; No. 99, 1997
s. 56 .....	am. No. 99, 1997; No. 142, 2001 (as am. by No. 127, 2002)
s. 57 .....	am. No. 99, 1997
s. 58 .....	am. No. 99, 1997; Nos. 142 and 144, 2001
s. 60 .....	am. No. 99, 1997
s. 60A .....	ad. No. 99, 1997
s. 60B .....	ad. No. 99, 1997
	am. No. 147, 2012
s. 60C .....	ad. No. 99, 1997
s. 60D .....	ad. No. 99, 1997
	am. No. 144, 2001 (as am. by No. 9, 2006)
s. 60E .....	ad. No. 99, 1997
	am. No. 144, 2001
s. 60F .....	ad. No. 99, 1997
	am. No. 144, 2001; No. 103, 2011
s. 61 .....	am. Nos. 142 and 144, 2001
s. 62 .....	rs. No. 99, 1997

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Division 6</b>	
s. 64 .....	am. No. 7, 1992; No. 144, 2001; No. 110, 2004
s. 65 .....	am. No. 144, 2001
s. 66 .....	am. No. 7, 1992
s. 67 .....	am. Nos. 142 and 144, 2001
s. 68 .....	am. No. 144, 2001; No. 103, 2011
s. 68A.....	ad. No. 144, 2001
s. 69 .....	am. Nos. 142 and 144, 2001
s. 70 .....	am. No. 144, 2001; No. 103, 2011
<b>Division 8</b>	
s. 75 .....	am. Nos. 102 and 214, 1992; No. 99, 1997; No. 110, 2004; No. 134, 2007
s 76 .....	am No 124, 2017
<b>Division 9</b>	
s. 77 .....	rep. No. 134, 2007
s. 78 .....	am. No. 103, 2011; No. 147, 2012
<b>Part 3A</b>	
Part 3A.....	ad. No. 99, 1997
<b>Division 1</b>	
s. 80A.....	ad. No. 99, 1997
	rs. No. 110, 2004
	am No 147, 2012
Heading to s. 80B.....	am. No. 110, 2004
s. 80B.....	ad. No. 99, 1997
	am. No. 142, 2001 (as am. by No. 127, 2002)
	rs. No. 74, 2003
	am. No. 110, 2004
<b>Division 2</b>	
s 80C.....	ad. No. 99, 1997
s 80D.....	ad. No. 99, 1997
<b>Division 3</b>	
s. 80E.....	ad. No. 99, 1997

## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
	am. No. 74, 2003; No. 110, 2004
s. 80F .....	ad. No. 99, 1997
	am. No. 74, 2003; No. 110, 2004; No 147, 2012
s. 80G.....	ad. No. 99, 1997
	am. No. 74, 2003; No. 110, 2004
s. 80H.....	ad. No. 99, 1997
s. 80J.....	ad. No. 99, 1997
	am. No. 74, 2003
s. 80K.....	ad. No. 99, 1997
	rs. No. 74, 2003
	am. No. 110, 2004
s 80KA.....	ad. No. 74, 2003
	am. No. 110, 2004; No 147, 2012
s 80KB.....	ad. No. 74, 2003
	am. No. 110, 2004; No 147, 2012
s 80KC.....	ad. No. 74, 2003
	am. No. 110, 2004
s. 80L.....	ad. No. 99, 1997
	am. No. 110, 2004
s. 80M.....	ad. No. 99, 1997
	rs. No. 74, 2003
s. 80N.....	ad. No. 99, 1997
	am. No. 74, 2003
s. 80P .....	ad. No. 99, 1997
	am. No. 74, 2003; No. 110, 2004
s 80Q.....	ad No 99, 1997
	am No 142, 2001; No 74, 2003; No 147, 2012
	rep No 14, 2019
s 80QA.....	ad No 99, 1997
	am No 110, 2004; No 14, 2019
s 80QB.....	ad No 99, 1997

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s 80QC.....	ad No 99, 1997
s 80QD.....	ad No 99, 1997 am No 142, 2001; No 74, 2003; No 110, 2004; No 147, 2012
s 80R.....	ad No 99, 1997
<b>Division 4</b>	
s. 80S.....	ad. No. 99, 1997 am. No. 110, 2004
s 80T.....	ad No 99, 1997 am No 74, 2003; No 110, 2004; No 147, 2012
s 80U.....	ad No 99, 1997
<b>Division 5</b>	
s. 80W.....	ad. No. 99, 1997 am. No. 142, 2001; No. 110, 2004
s. 80Y.....	ad. No. 99, 1997 rep. No. 110, 2004
<b>Part 3B</b>	
Part 3B.....	ad. No. 134, 2007
s 81.....	rep. No. 137, 2000 ad. No. 134, 2007 am No 126, 2015
s. 81A.....	ad. No. 134, 2007
<b>Part 4</b>	
<b>Division 1</b>	
Division 1 heading.....	rs No 99, 1997
s 83.....	am No 142, 2001 rs No 124, 2017
s 83A.....	ad No 99, 1997
<b>Division 2</b>	
s 84.....	am No 146, 1999
<b>Division 3</b>	
Division 3.....	ad No 124, 2017

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 85 .....	am No 142, 2001; No 144, 2001 rs No 124, 2017
<b>Division 4</b>	
Division 4 .....	ad No 124, 2017
s. 86 .....	am. No. 134, 2007 rs No 124, 2017
s. 87 .....	am. No. 142, 2001 rep No 124, 2017
s 88 .....	am No 142, 2001; No 144, 2001 rep No 124, 2017
<b>Division 5</b>	
Division 5 .....	ad No 124, 2017
s 89 .....	rs No 124, 2017
<b>Part 5</b>	
s. 90 .....	am. No. 144, 2001
s. 91 .....	am. No. 56, 2002
s. 92 .....	am. No. 159, 2001
s. 94 .....	rs. No. 122, 1991 am. No. 146, 1999
s. 96 .....	am. No. 122, 1991
s. 97 .....	am. No. 46, 2011
s. 99 .....	am. No. 56, 2002
s. 100 .....	am. No. 146, 1999; No. 56, 2002
s. 100A.....	ad. No. 56, 2002 am No 62, 2014
s. 100B.....	ad. No. 56, 2002 am. No. 74, 2003; No. 135, 2005; No. 30, 2006; No 62, 2014
s.100C.....	ad No 56, 2002 am No 135, 2005; No 145, 2015
<b>Part 5A</b>	
Part 5A.....	ad. No. 14, 2004

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Division 1</b>	
s. 100D.....	ad. No. 14, 2004 am. No. 8, 2010
<b>Division 2</b>	
s. 100E.....	ad. No. 14, 2004
<b>Division 3</b>	
s. 100F.....	ad. No. 14, 2004
<b>Division 4</b>	
s 100G.....	ad No 14, 2004
s 100H.....	ad No 14, 2004
s 100J.....	ad No 14, 2004
s 100K.....	ad No 14, 2004
<b>Part 6</b>	
s 102.....	am No 102, 1992; No 214, 1992; No 99, 1997; No 144, 2001; No 74, 2003; No 110, 2004; No 111, 2009; No 103, 2011; No 14, 2019
s 104.....	am No 146, 1999; No 5, 2011; No 124, 2017
s. 104A.....	ad. No. 99, 1997 rs. No. 146, 1999 am. No. 144, 2001; No. 103, 2011
s 105.....	am No 46, 2011; No 10, 2015
s 106.....	rs No 214, 1992 am No 99, 1997; No 142, 2001; No 144, 2001; No 4, 2016
s 108.....	rs No 36, 2015
s 109.....	am No 142, 2001; No 5, 2015
s 110.....	am No 102, 1992; No 214, 1992; No 99, 1997; No 144, 2001; No 74, 2003; No 110, 2004; No 134, 2007; No 111, 2009; No 103, 2011; No 147, 2012
s. 110A.....	ad. No. 74, 2003
s. 110B.....	ad. No. 110, 2004 am. No. 8, 2005
s. 110C.....	ad. No. 110, 2004

Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s. 111 .....	am. No. 62, 1991; No. 144, 2001
<b>Schedule</b>	
Schedule .....	am. No. 99, 1997; No. 110, 2004; No. 103, 2011; No. 147, 2012

## Endnotes

### Endnote 5—Editorial changes

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#### **Endnote 5—Editorial changes**

In preparing this compilation for registration, the following kinds of editorial change(s) were made under the *Legislation Act 2003*.

#### **Paragraph 30(4)(a)**

##### **Kind of editorial change**

Change to spelling

##### **Details of editorial change**

This compilation was editorially changed to omit the word “withold” and substitute the word “withhold” in paragraph 30(4)(a) to correct the spelling.