



PROACTIVE RELEASE COVERSHEET

Minister	Hon Penny Simmonds	Portfolio	Environment
Name of package	Briefing: Outstanding policy decisions for HSNO Act Omnibus Bill	Date to be published	19 September 2025

List of documents that have been proactively released

Date	Title	Author
27 June 2025	Briefing: Outstanding policy decisions for HSNO Act Omnibus Bill	Ministry for the Environment

Information redacted **YES**

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Summary of reasons for redaction

Some information withheld under 9(2)(f)(iv) to protect the confidentiality of advice tendered to the Government, and under s(9)(2)(h) to maintain legal professional privilege.



Briefing: Outstanding policy decisions for HSNO Act Omnibus Bill

Date submitted: 27 June 2025

Tracking number: BRF-6205

Sub Security level: In-Confidence

MfE priority: Urgent

Actions sought from Ministers		
<i>Name and position</i>	<i>Action sought</i>	<i>Response by</i>
To Hon Penny SIMMONDS Minister for the Environment	Respond to recommendations	2 July 2025

Actions for Minister's office staff
Return the signed briefing to the Ministry for the Environment (advice@mfe.govt.nz).

Appendices and attachments
Nil

Key contacts at Ministry for the Environment			
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Minister's comments

Outstanding policy decisions for HSNO Act Omnibus Bill

Key messages

1. On 24 February 2025 Cabinet agreed to progress an Omnibus Bill to make changes to the Hazardous Substances and New Organisms Act 1996 (HSNO Act) and Agricultural Compounds and Veterinary Medicines Act 1997 (ACVM Act). These changes were to progress the recommendations from the Ministry for Regulation sector review of the application process for agricultural and horticultural products.
2. A Cabinet paper to request permission to issue drafting instructions for the Omnibus Bill and to report back on the progress on the recommendations was presented to the Cabinet Economic Policy Committee on 21 May 2025 and Cabinet on 26 May 2025.
3. However, policy work for some of the changes included in the Cabinet paper were not advanced enough for drafting instructions to proceed and Cabinet authorised you to take formal detailed decisions on these matters. This briefing recommends the following proposals on these matters for your decision:
 - i to introduce a tiered pathway structure for applications for hazardous substances based on the Environmental Protection Authority's (EPA) current operational process, which splits applications into three categories based on the existence of the active ingredient and use pattern in New Zealand;
 - ii to introduce a regulation making power to set application process steps and timeframes for all applications relating to hazardous substances and new organisms made under Part 5 and Part 6A;
 - iii to realign provisions associated with public notification and hearings to provide more discretion to the EPA and provide more criteria for the EPA to consider when making a decision to publicly notify;
 - iv to provide the EPA with powers to:
 - i. assess the completeness of an application and return if incomplete;
 - ii. request information at different points of the assessment process and pause the statutory time limits when waiting for said information;
 - iii. waive individual process timeframes in specified situations;
 - iv. clarify when an application is lapsed; and
 - v to provide for additional information on a hazardous substance levy framework to allow for drafting.

Recommendations

We recommend that you:

- a. **note** that Cabinet authorised you to make final detailed decisions on matters relating to the approved recommendations.
- b. **agree** to introduce a tiered pathway structure for applications for new hazardous substances into the HSNO Act. These pathways will align with the EPA's current operational processes.

Yes | No

- c. **agree** to using a regulation making power to amend application process steps and timeframes for all applications relating to hazardous substances and new organisms made under Part 5 and Part 6A.

- a. key steps in the application process for all Part 5 and 6A hazardous substance and new organism applications, including for public notification and for EPA to receive an application.

Yes | No

- b. timeframes for each of the above key steps.

Yes | No

- d. **agree** to repeal or amend the existing requirements for key process steps and timeframes in the HSNO Act to allow for the regulations when they come in force.

Yes | No

- e. **agree** to amend the HSNO Act so that new organism applications no longer require public notification by default, but rather the EPA must be satisfied that applications meet a significant public interest test to be publicly notified.

Yes | No

- f. **agree** to amend the HSNO Act so that emergency applications no longer require public notification by default, but rather the EPA must be satisfied that applications meet a significant public interest test to be publicly notified.

Yes | No

- g. **agree** to amend the HSNO Act to restricting hearings to only occur when the EPA is satisfied that additional relevant information is likely to be obtained by the hearing.

Yes | No

- h. **agree** to amend the HSNO Act to:

- a. give the EPA discretion to notify the applicant that the application does or does not contain all the necessary information;
- b. assessment timeframes start to run only after the EPA notifies the applicant that the application contains all necessary information; and
- c. the EPA must notify the applicant whether their application contains all the necessary information within a timeframe specified in regulations.

Yes | No

i. **agree** to amend the HSNO Act so that:

- a. the EPA can request information from the applicant at any time;
- b. the application lapses if the applicant does not provide all the information within a specified timeframe, and that timeframe may differ for different application types;
- c. the statutory time limits may be paused while waiting for the information; and
- d. there are limits on the EPA to request information and pause timeframes.

Yes | No

j. **agree** to maintain the other powers in the HSNO Act so the EPA can pause, amend or waive a timeframe at any point during the process with applicant or submitter agreement, or if the EPA is satisfied there is no undue prejudice.

Yes | No

k. **agree** to the following design decisions on the hazardous substance levy framework:

- a. **The group of persons required to pay the levy:** importers and manufacturers of all hazardous substances.

Yes | No

- b. **Who the levy is to be paid to:** collected by EPA and payable to the EPA or a prescribed person on behalf of the Crown.

Yes | No

- c. **The particular purpose for which the levy is imposed:** to support the EPA in delivery of its regulatory responsibilities and functions with respect to hazardous substances under the HSNO Act (with specific uses in the body of the briefing).

Yes | No

d. **The following costs should be met out of the levies:**

- l. a portion of the costs of the EPA in performing or exercising its functions, powers, under duties under the HSNO Act with respect to hazardous substances, where the size of the portion to be met by the levies is determined by the Minister; and
 - i. the costs of collecting the levy money.

Yes | No

m. **provide** any feedback on the advice provided here if desired.

n. **meet** with officials for further discussion if desired.

Yes | No

Signatures



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**Climate Change Mitigation and
Resource Efficiency**
27 June 2025

Hon Penny SIMMONDS
Minister for the Environment

Date

Outstanding policy decisions for HSNO Act Omnibus Bill

Purpose

4. This briefing seeks your decision on outstanding policy issues for the Agricultural and Horticultural Products Regulatory Review Omnibus Bill. Your decisions are required to complete drafting instructions.

Background

5. In June 2024, the Government announced that the approval process for agricultural and horticultural products would be the subject of a regulatory review by the Ministry for Regulation (MfR). This was in response to concerns from industry organisations, mainly about the time taken to get new products to market.
6. The review was conducted in collaboration with the Ministry for the Environment (MfE), the Environmental Protection Authority (EPA) and the Ministry for Primary Industries (MPI) and made 16 recommendations. Ministers for Regulation, Environment and Food Safety jointly took the recommendations from the review to the Economic Policy Committee on 19 February 2025 and Cabinet on 24 February 2025.
7. Cabinet agreed to progress an Omnibus Bill to make amendments to the Hazardous Substances and New Organisms Act 1996 (HSNO Act) and the Agricultural Compounds and Veterinary Medicines Act 1997. Cabinet also requested a report back on the progress of the full suite of recommendations in May 2025.
8. On 3 April you approved changes to the HSNO Act as part of the Agricultural and Horticultural Products Regulatory Review Omnibus Bill.
9. Final policy decisions on the Omnibus Bill went to the Cabinet Economic Policy Committee on 21 May 2025 [ECO-25-MIN-0075 refer] and Cabinet on 26 May 2025, along with a report back on progress on implementing the wider MfR recommendations.
10. Some of the decisions for changes to the HSNO Act included in the May Cabinet paper were agreed to in principle and Cabinet authorised you to make final detailed decisions on these matters. These matters were to:
 - i Introduce a tiered pathway structure for applications for new hazardous substances based on risk (**recommendation 10**);
 - ii Use a regulation making power, subject to legal advice and further discussion with the Parliamentary Counsel Office, to amend the application process steps and timeframes for all applications relating to hazardous substances and new organisms made under Part 5 and Part 6A (**recommendation 11**);
 - iii Amend provisions in the HSNO Act, associated with public notification and hearings so that public notification is only required, and hearings are held, on applications

where justified based on risk, public interest, efficiency and transparency (**recommendation 12**);

- iv Amend the HSNO Act to provide the EPA with powers related to application processing and timeframes for all applications made under Parts 5 and 6A (**recommendation 13**);
- v Introduce enabling provisions for regulations within HSNO for a hazardous substance levy regime on the import and manufacture of hazardous substances, to be paid by importers and manufacturers to support the EPA's hazardous substances functions, with criteria in the HSNO Act on relevant considerations when designing the levy regime (**recommendation 16**).

11. This paper outlines the decisions to be made to progress drafting instructions.

Analysis and advice

A tiered pathway structure for hazardous substance applications

12. All hazardous substance “full release” applications (that are not assessed under a section 28A rapid pathway) are treated the same under sections 28 and 29 of the HSNO Act. These applications vary considerably in complexity, and the EPA's existing operational practice is to categorise these applications according to their level of complexity and risk. This categorisation also informs the level of assessment required.
13. Distinguishing different types of applications by their potential risk and complexity in legislation would allow appropriate statutory timeframes for each application type to be set. This would in turn create greater transparency and clarity for applicants on both the application process and the expected timelines for assessment before they lodge an application. It would also enable the EPA to better report against these timeframes.
14. We are proposing introducing the following hazardous substance application types as application pathways:

Table 1: Split of applications	
Rapid applications (currently under s28A)	Applications for a hazardous substance that contains an active ingredient already approved in New Zealand, and that is used in the same or similar manner as existing products and/or is a low risk to the environment or human health. Existing criteria for rapid applications exist in the HSNO Act. Includes the international regulator rapid assessment pathway. Shortest application timeframe.
Category A	Applications for a hazardous substance that contains an active ingredient (or combination of active ingredients) already approved in New Zealand, and that is used in the same or similar manner as existing products. Limited or no quantitative assessment. Does not meet the legislative criteria for any of the rapid assessment pathways.
Category B	Applications for a hazardous substance that contains an active ingredient(s) already approved in New Zealand, that is used in a significantly different manner (use pattern, application method/rate) as existing products, or substances with a new combination of active

	ingredients that have not been assessed in combination. Some quantitative risk assessment required.
Category C	Applications for hazardous substances that contain an active ingredient(s) that have never been assessed or approved in New Zealand. Full quantitative assessment required and longest overall timeframes.

15. These application types will be described in the HSNO Act. It is envisioned that an applicant will apply for a specific application type.
16. We recommend this approach as it will provide more transparency and certainty for applicants. This method seeks to align with existing EPA operational process so there is already familiarity amongst the industry with this approach. To implement this proposal, there will need to be other changes to the application process – these are described below.

Regulation making power for key steps in the application process and timeframes for hazardous substance and new organism applications

17. As Cabinet has already agreed to recommendation 11, there will be a regulation making power within the HSNO Act that will set out steps in the application process for all Part 5 and 6A applications and timeframes. It will also set out each key step that will need to be followed by the EPA. These regulations, when in force, will enable greater transparency and clarity in both the application process and expected timelines for assessment. We recommend specifying in the HSNO Act that public consultation is required for development of these regulations, and for any future changes.

Key steps in the application process

18. The regulations will specify key steps for the application process for each application type in Part 5 and 6A, for all hazardous substance and new organism applications. This will set out the procedural requirements for each application type that the EPA must follow. For example, a Category C application containing a new active ingredient under section 28 may have the following process steps (indicative only):
- i Application lodged
 - ii Checking for a complete application
 - iii EPA assessment of application
 - iv Applicant to supply more information if required
 - v Applicant review and feedback on EPA assessment and draft controls
 - vi Public notification and release of draft EPA assessment
 - vii Collate and analyse submissions
 - viii Hearing (if considered necessary by the EPA)
 - ix Consideration and decision

- x Publication of decision.
19. These key steps may differ depending on each application type, with the main difference being whether public notification and a hearing is required or warranted (steps vi – vii above). It is envisioned that these steps will apply to all Part 5 and 6A application types, including the new application types mentioned above.
 20. Each application type will include a specific time period for the EPA to assess the application. This time period will be relative to the potential level of risk posed by the hazardous substance or new organism. When assessing an application, the evaluation of risk comprises the majority of the assessment time so the above amendment would provide statutory clarification on process.

Timeframes for each key step for each application

21. The regulations will establish timeframes for each key step for each application type, which will give an end-to-end timeframe. This will provide increased clarity for applicants, so they know when to expect a decision.
22. We propose that the timeframes and key steps for the processing of applications will be developed in subsequent regulations. The enabling power to set these will be in the HSNO Act. The specific key steps for each application type and the associated timeframes will be confirmed in regulation after consultation.
23. There will be a requirement for transitional and savings provisions within the HSNO Act to ensure that there is smooth transition from the existing timeframes and process steps to the new ones when the regulations are enacted.

Treatment of public notification and hearings

Public notification

24. Section 53 of the HSNO Act specifies which applications are required to be publicly notified and when. The purpose of public notification is to allow the public to participate in the regulatory process through submissions. Some applications must be publicly notified, others may be publicly notified if the EPA considers that there is significant public interest, and some (such as rapid assessments) are not publicly notified.
25. We propose removing the requirement for new organism applications to be publicly notified under section 34 and 38A. Instead, these could still be publicly notified if it is considered by the EPA that there may be significant public interest. Public notification of these applications is currently mandatory and prescribed in the HSNO Act as they include genetically modified organisms (GMOs). At the time the HSNO Act was first enacted, the new organism regime was quite strict to ensure tight regulation on GMOs and ensure public involvement. As regulation of GMOs is being removed from the HSNO Act, the original policy justification has also been removed. Removing the mandatory public notification requirement will allow alignment with the hazardous substance regime. We also note that public notification would be reduced if the regulation of GMOs were to be removed as provided for in the Gene Technology Bill that is currently being considered by the Health Select Committee.
26. We also propose removing the public notification requirements for emergency applications under section 47 (which will be renamed contingency applications) and propose the EPA have the discretion to publicly notify, undertake targeted consultation

or not notify based on the public interest in the applications. These applications vary from minor variations on existing approvals for routine biosecurity incursions to significant responses anywhere in New Zealand. The MfR report recommends streamlining applications that support biosecurity responses. Removing mandatory public notification will streamline the process for applications that are unlikely to have significant public interest.

27. While this change will decrease the public's ability to participate in the assessment of these applications, those that are likely to have a significant public interest will continue to be publicly notified.
28. The HSNO Act also gives the option for targeted consultation on some application types, and this could be expanded for some categories, such as group standards. We propose that targeted consultation is available to a broader range of applications. An increased ability to rely on targeted consultation may be a more effective way for the EPA to obtain relevant information, particularly for group standards that have a defined scope and where relevant stakeholders can be more easily identified. Full reassessments will still require public notification.

Hearings

29. Under section 60 of the HSNO Act, the EPA is obliged to hold a hearing if the EPA considers it necessary or if the applicant or a person who has made a submission, requests it. Hearings play an important natural justice role in the system, as they allow for the applicant and submitters to provide feedback on what has been identified during the submission process.
30. However, in some cases where a hearing is required to be held, little additional relevant information (which could have been provided through the public notification and submission process) is received to inform the EPA's decision. Reducing the need for the EPA to hold a hearing where it is not necessary will reduce application timeframes and costs.
31. To balance these issues, we recommend additional minor changes to the HSNO Act to restricting hearings to only occur where additional relevant information is likely to be obtained by the hearing, as decided by the EPA. These will be based on best practice of legislative design.

EPA powers related to application processing and timeframes for all applications

32. We propose clarifying and changing some of the processes and EPA powers within the HSNO Act related to application processing and timeframes of all applications.

Clarifying the receipt of application

33. Currently the HSNO Act imposes timeframes for applications upon "receipt of the application" (sections 51, 52 and 59) but does not specify what "receipt of the application" is. This can create uncertainty for applicants as to when timeframes begin.
34. We propose to give the EPA a discretion to notify the applicant that the application does or does not contain all the necessary information to meet the statutory requirements for the content of that application that is currently within the Act. We also propose that the

assessment timeframes in the regulations start to run only after the EPA notifies the applicant that the application contains all necessary information.

35. To ensure that this occurs within a timely manner, we also propose providing an initial timeframe for the EPA to do this from the point of lodgement/submission of the application. This timeframe will be worked through as part of the regulations discussed above and will differ for different application types.
36. This will streamline the initial part of the process to the following two steps:
 - i An applicant provides the EPA with an application and supporting documentation.
 - ii The EPA will review the application to see if it meets the statutory requirements for the content of the application already in the HSNO Act within a specific timeframe. If it meets the requirements, it will be received and progress to assessment. If it does not meet requirements, the EPA will return it to the applicant identifying why the application is incomplete and they can reodge the application when remedied.
37. This evaluation carried out by the EPA is administrative only and is not to be confused with the assessment of an application under the relevant provisions for each application type. The language used to describe this process may be refined during drafting to shift away from existing processes and ensure clarity.

Requesting additional information from applicant

38. Currently under the HSNO Act, the EPA can request additional information from the applicant within 10 working days of receipt of an application. If the applicant cannot provide that information within a year, the application lapses. The EPA can ask for information after that 10 working days, but the application can stay open indefinitely. This causes an administrative burden as the EPA must keep these applications open, in some cases for years, which can remove focus from more active applications.
39. We propose removing the 10-working day timeframe limit for the EPA to request information so they can request additional information at any time in the process. We also propose changing the 1-year lapsing timeframe to various timeframes based on the application type. We propose to provide for the ability for application processing timeframes to be paused while further information is being requested. Finally, limits on the scope of these powers will be worked through with the legal team and covered in our drafting instructions.

Pausing or waiving timeframes

40. There needs to be an ability for the EPA to pause or waive timeframes for reasons other than requiring further information from the applicant. These reasons could include to allow for applicant and submitter schedules to align for a hearing, allow time for a specialist contractor to complete technical assessments in an area outside of the EPA's usual expertise, or allow more time for an applicant to respond to any feedback from the EPA. Currently, there is an ability for application processing timeframes to be paused or waived, with the agreement of the applicant or submitters, or if they do not agree, satisfaction that those parties will not be unduly prejudiced.
41. With the updated timeframe regulations, we would expect that these waivers will be used sparingly, and for specific reasons beyond the control of the EPA. We believe that the

current powers as they stand will give certainty around timeframes but not at the expense of robust assessment and fair process.

Checks and balances

42. Drafting will specify checks and balances for these powers will be based on best practice of legislative design. These checks and balances will be worked through with the legal team and covered in our drafting instructions. Furthermore, reporting requirements and mechanisms for the EPA are set under Part 4 of the Crown Entities Act and Ministers can request other reporting requirements in their letter of expectations, and through feedback on the EPA's statement of intent and statement of performance expectations.

Enabling provisions for regulations within the HSNO Act for a hazardous substance levy

43. Recommendation 17 of the Cabinet Paper noted that detailed design decisions on the levy would be delegated to you. These design decisions will include enabling provisions within the regulation for payments on the import and manufacture of hazardous substances. It is intended that this is to be paid by importers and manufacturers to support the EPA's broad functions relating to hazardous substances.
44. While these amendments will only provide the enabling provisions for a levy, as Cabinet has already agreed, and a levy regime will require regulations to be developed, there are several design decisions to be made to determine the make-up of the levy, including exemption criteria, the setting, timing, consultation and flow-on impacts of the levy.
45. Specific design decisions which are needed to progress the drafting of the enabling provisions are outlined in the table below:

Table 2: Specific design decisions required by the Minister	
<i>The group of persons required to pay the levy</i>	We recommend the levy is to be paid by importers and manufacturers of all hazardous substances.
<i>Who the levy is to be paid to</i>	We recommend that the levy is collected by the EPA or a prescribed person on behalf of the Crown and is payable to the EPA.
<i>The particular purpose for which the levy is imposed</i>	<p>We propose the purpose of the levy is to support the EPA in its delivery of its regulatory responsibilities and functions with respect to hazardous substances, under the HSNO Act. The levy will be used to fund the following EPA functions:</p> <ul style="list-style-type: none"> • Assessment of new hazardous substances and the reassessment of hazardous substances already approved. <p>Ongoing maintenance of risk assessment models to support those assessments and reassessments.</p> <ul style="list-style-type: none"> • Maintenance of the group standard framework, including developing new group standards and amendments to existing group standards. Most regulated parties under the HSNO Act (primarily importers and manufacturers) are using group standards but incur no fees or charges for doing so. • Issuing and amending EPA notices which set consistent baseline rules for the management of hazardous substances. • Development of guidance. • Provision of advice on the EPA's compliance and enforcement functions with respect to hazardous substances under HSNO.
<i>The costs to be met out of the levies, and whether the costs concerned are to be fully met by the levy, or to fund a portion of the costs concerned</i>	<p>We do not expect the levy will fully fund the cost of the EPA's regulatory functions with respect to hazardous substances. The EPA currently prescribes fees and charges for its assessment and reassessment functions depending on the type of application. These fees and charges will remain in place following the introduction of the levy. As the overall functions of the EPA cannot be met from these funding sources, we believe it is equitable based on 'user pays' charges to ensure those paying nothing under the current group standards contribute to the upkeep and maintenance of the HSNO system via the levy. There are also functions needed to support the overall system of assessments and external reassessments, such as the support for risk assessment models, and the development of guidance. The EPA also receives government appropriations to support its public good functions. These functions remain and it is expected that government funding will still be required in the future. The costs of collecting the levy will be met fully out of the levy.</p>

46. As noted in the cost recovery impact statement (CRIS) discussing the levy, some of this further thinking will be developed in the stage 2 CRIS which will accompany the regulations for the levy. Officials recommend that you request further analysis – including the completion of the stage 2 CRIS – to determine the final work required to enact a levy when writing the regulations.

Te Tiriti analysis

47. Due to the short timeframes to undertake these amendments, we have not undertaken a Te Tiriti Impact Analysis.

Other considerations

Consultation and engagement

48. These proposals were developed collaboratively with EPA officials. Earlier versions of these proposals were part of targeted stakeholder consultation, and that feedback has been canvassed when further developing these proposals.

Risks and mitigations

49. In addition to the risks outlined in specific sections above, an additional risk includes decreased quality of analysis and outcomes due to the short timeframes for introducing the Omnibus Bill.

Legal issues

49. s 9(2)(h) [Redacted]

- [Redacted]

Financial, regulatory and legislative implications

51. These policy proposals will have financial, regulatory, or legislative implications for the hazardous substance and new organism regime. These implications have been discussed in the Regulatory Impact Statement and Cost Recovery Impact Statement that accompanied the May Cabinet paper. The second stage Cost Recovery Impact Statement and regulations will further discuss the financial implications of the levy.

Next steps

52. s 9(2)(f)(iv)

[REDACTED]