

## **In Confidence**

### **Office of the Minister for the Environment**

#### **Chair, Cabinet Environment, Energy and Climate Committee**

### **Policy approval for proposed amendments to the Hazardous Substances and New Organisms Act 1996**

#### **Proposal**

1. I am seeking approval to:
  - 1.1. issue drafting instructions for proposed amendments to the Hazardous Substances and New Organisms (HSNO) Act 1996 to improve the efficiency of the processes for assessments and reassessments of hazardous substances
  - 1.2. begin a regulatory process to amend the Hazardous Substances and New Organisms (Methodology) Order 1998 to give effect to these amendments to the HSNO Act.

#### **Executive summary**

2. The HSNO Act came into force for hazardous substances on 2 July 2001. The Act's purpose is to protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of hazardous substances and new organisms.
3. The Environmental Protection Authority (EPA) approves new hazardous substances and sets controls over them, and also reassesses hazardous substances to ensure the existing controls are fit for purpose. Appendix 3 briefly describes the current system.
4. Currently, the assessment and reassessment of hazardous substances in New Zealand can be time-consuming and resource-intensive. This is partly because the EPA is not able to efficiently apply information from international regulators that it trusts as having a reliable and similar approach (trusted regulators).
5. The consequence is inadequate incentives to introduce new, beneficial substances, and replace old, harmful ones. Timely assessments would support the appropriate management of hazardous substances to protect human health, safety, and the environment.
6. In July 2019, Cabinet agreed for the Ministry for the Environment (MfE) to consult on proposed improvements to the HSNO Act for assessments and reassessments of hazardous substances [CAB-19-MIN-0362]. The proposed improvements included proposals for making better use of international information during the assessment and reassessment processes, and improving reassessments.

7. MfE consulted during August and September 2019, receiving 44 submissions from a range of individuals and groups, including iwi/Māori, non-profit organisations, the chemical industry, primary industry sectors, local government and health agencies. A report summarising submissions is provided in Appendix 1.
8. Taking into consideration feedback from the consultation, I propose:
  - 8.1. amendments to the HSNO Act to provide the EPA with simplified processes for assessments and reassessments. These processes will be used in situations specified in the Methodology Order, enabling better use of information from trusted regulators and recent EPA assessments
  - 8.2. other improvements to the reassessment process.
9. These changes are aimed for better protection of human health, safety, and the environment. They will effectively create a more dynamic hazardous substances regime, where assessments and reassessments will happen more quickly. I will therefore require the EPA to be more transparent and responsive in its engagement with applicants and the public regarding its assessment and reassessment programme and processes.

## Background

10. The HSNO Act came into force on 2 July 2001. The Act's purpose is to protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of hazardous substances and new organisms.
11. The EPA is responsible for managing more than 150,000 hazardous substances under the HSNO Act. The EPA approves new hazardous substances, sets controls over them, and reassesses hazardous substances to ensure the existing controls are fit for purpose. WorkSafe New Zealand (WorkSafe) provides the EPA with advice on workplace controls for hazardous substances and enforces rules for the use of hazardous substances in the workplace.
12. Under the HSNO Act, new hazardous substances that have not been legally present in New Zealand must be assessed and approved with appropriate controls before being manufactured or imported. Hazardous substances legally present in New Zealand prior to 2001 were transferred to the new Act.
13. To better manage hazardous substances and protect human health, safety, and the environment, in July 2019, Cabinet agreed for the Ministry for the Environment (MfE) to consult on proposed improvements to the HSNO Act for assessments and reassessments of hazardous substances [CAB-19-MIN-0362]. The proposed improvements included:
  - 13.1. a proposal for making better use of international information during the assessment and reassessment processes
  - 13.2. other proposals to improve reassessments.
14. MfE publicly consulted on the proposals during August and September 2019. Most submitters supported making better use of international information but also emphasised the importance of the EPA considering a New Zealand context in its decision making. Submitters suggested that, in addition to international information, the EPA ought to consider potential impacts on access to some important hazardous substances, financial impacts on industry, impacts on indigenous

species and the environment, the importance of Māori knowledge, and obligations in Treaty of Waitangi settlements.

15. Generally, submitters supported initiatives to reduce duplication of work and increase efficiency but also raised concerns about the workability and impacts of the proposals. Some submitters suggested regulatory change was not needed and that the efficiency gains sought could be made if the EPA continues its planned operational improvements. They also sought greater transparency of the EPA's work plan for reassessments and improved engagement practices.
16. Following this consultation, I propose amendments to the HSNO Act and the Methodology Order to improve the assessment and reassessment processes while ensuring transparency as outlined below. I also intend to publish the attached report on the summary of submissions (Appendix 1) on the Ministry for the Environment's website. A Regulatory Impact Assessment (RIA) evaluating the recommended amendments, and summarising key changes following public consultation, is attached in Appendix 2.
17. The purpose of these proposals is to provide appropriate management of hazardous substances, and to better protect human health, safety, and the environment. It is difficult to accurately quantify the benefits. However, the non-monetised benefits to human health, safety, and the environment from a more timely and greater number of assessments and reassessments will generate positive effects.
18. Some proposals provide the EPA with more flexibility and discretion in its decision-making, carefully balanced with the EPA's accountability and function as an independent regulator of hazardous substances.
19. The proposed changes would create a more dynamic hazardous substances regime, where assessments and reassessments would happen more quickly. I will therefore require the EPA to be more transparent and responsive in its engagement with applicants and the public as to its assessment and reassessment programme and processes.
20. These proposed amendments to the HSNO Act and the Methodology Order are part of a broader work programme to better regulate and manage hazardous substances and improve the assessment and reassessment processes. That programme includes the EPA's chemical modernisation programme, which is updating the hazardous substances classification system and upgrading the EPA's hazardous substances database. The EPA also sought, and has been granted, budget funding to support its assessment and reassessment programme in Budget 2020.
21. In addition, an independent Technical Working Group reported in 2019 on its evaluation of the hazardous substances compliance system in New Zealand. MfE and the EPA are working on the recommendations of the report. One of the report's recommendations was to pursue the introduction of a trusted regulator mechanism.

## Recommended package

22. The recommended package includes eight changes to the HSNO Act. These included three changes to enable the EPA to make better use of information from trusted regulators and five other improvements to the reassessment process of hazardous substances. Specifically, I propose to:

### Making better information from trusted regulators

- i. enable the EPA to apply data, information, assessments, and decisions from trusted regulators with a consideration of the New Zealand context (with consultation in its discretion, except in particular circumstances)
- ii. provide a simplified process for updating hazard classifications of substances and corresponding controls based on information from trusted regulators
- iii. enable the EPA to temporarily restrict certain uses of a hazardous substance, subject to specific requirements

### Other improvements to the reassessment process

- iv. enable more targeted consultation during modified reassessments
- v. require the EPA to develop a publicly available work plan for reassessments, with items on this work plan deemed to meet the reassessment criteria (grounds)
- vi. enable the EPA to align the timeframes of the assessments and reassessments of related hazardous substances in specific situations
- vii. provide a simplified process for updating controls on existing hazardous substances in a situation where the EPA has undertaken a recent assessment of a related hazardous substance
- viii. delegate some decision-making power to the EPA's Chief Executive.

23. To implement some of the above changes to the HSNO Act, I propose the following changes to the Methodology Order:

- i. setting the criteria and process for identifying international regulators whom the EPA can trust (trusted regulators)
- ii. specifying the assessment and reassessment processes when the EPA applies information from trusted regulators
- iii. specifying other requirements on the way the EPA applies information from trusted regulators
- iv. setting the criteria for the EPA's discretion over consultation in processes mentioned in paragraphs 22 (i), (ii), and (vii)
- v. requirements for the EPA to be more transparent about its work plan and decisions.

24. The requirements on transparency are to ensure public confidence and balance the autonomy that this suite of policy changes gives to the EPA.

25. As the Methodology Order is made by regulations, the proposed changes require public consultation (led by the EPA). This will provide additional opportunity for stakeholders to be involved in developing the criteria and process.

26. Subject to Cabinet approval via this paper and following changes to the HSNO Act being made, I will invite the EPA to start the regulatory process to amend the Methodology Order. The proposed changes to the Methodology Order will be brought to Cabinet for approval following the EPA's consultation.

## Proposals

### ***Making better use of information from trusted regulators***

*Enabling the EPA to apply data, information, assessments, and decisions from trusted regulators*

27. Currently, the EPA can consider information from international regulators during the assessments and reassessments of hazardous substances but it is required, under the HSNO Act and the Methodology Order, to carry out an assessment of all information from all sources and decision-making processes, which may include consultation and hearings.

#### Proposed amendments to the HSNO Act

28. I propose amendments to the HSNO Act to:

- i. enable the EPA to apply data, information, assessments, and decisions from trusted regulators with a consideration of the New Zealand context (with consultation in its discretion, except in particular circumstances)
- ii. specify that when the EPA decides not to consult, or is not required to consult, it will follow a process specified by amendments to the Methodology Order, and the decision-making power will be delegated to the EPA's Chief Executive.
- iii. specify that when the EPA decides to consult, or is required to consult, it will follow the full assessment, or the full or modified reassessment processes provided under the current sections 28, 63, 63A, and 63C of the HSNO Act. The decision-making power will be delegated to an EPA decision making committee in this circumstance.

#### Proposed amendments to the Methodology Order

29. To implement the above changes, I also propose amendments to the Methodology Order to:

- i. set the criteria and process for identifying international regulators whom the EPA can trust (trusted regulators)
- ii. specify the assessment and reassessment processes when the EPA applies information from trusted regulators<sup>1</sup>
- iii. specify other requirements on the way the EPA applies information from trusted regulators, including how the EPA will apply a part or the whole package of information
- iv. set the criteria for the EPA's discretion over consultation
- v. require the EPA to be more transparent about its work plan and decisions.

---

<sup>1</sup> These processes will have some similarities with the existing rapid assessment process provided under the current section 28A of the HSNO Act where certain information from a previous EPA assessment is applied for a new assessment.

30. The proposed amendments to the HSNO Act will only take effect after the proposed amendments to the Methodology Order have taken effect.
31. The EPA's Chief Executive will make decisions on the appropriate process for each assessment or reassessment applying information from trusted regulators in accordance with amendments to the Methodology Order.
32. I do not propose any amendments to the existing mechanism that protects confidential information under the HSNO Act. This is outside the scope of this project. While applying information from trusted regulators, the EPA will continue to comply with any relevant confidentiality requirements.

*Providing a simplified process for updating hazard classifications of substances and corresponding controls based on information from trusted regulators*

33. Currently, changes to hazard classifications and the corresponding controls of existing hazardous substances must be made through a modified reassessment process (Section 63A). This process includes the formal justification for reassessment ('grounds<sup>2</sup> step') and a reassessment application process with consultation and hearings if requested.

Proposed amendments to the HSNO Act

34. I propose amendments to the HSNO Act to:

- i. allow the EPA to follow a simplified process ('a process of updating hazardous substances controls') to make these changes when a trusted regulator decides to change the hazard classifications of a related chemical<sup>3</sup>
- ii. specify that the process of updating hazardous substances controls will not require the formal justification for reassessment
- iii. allow the EPA to have discretion over consultation when making these changes
- iv. specify that when the EPA decides not to undertake a consultation, the decision-making power will be delegated to the EPA's Chief Executive.
- v. Require that the EPA's Chief Executive CEO give reasons for their decision and that these will be published on the EPA website.

Proposed amendments to the Methodology Order

35. To implement the above amendments to the HSNO Act, I also propose amendments to the Methodology Order to:

- i. set the criteria for the EPA's discretion over consultation and the extent of consultation
- ii. require the EPA to be more transparent about its work plan for these updates and resultant decisions with underpinning evidence and rationale.

---

<sup>2</sup> Under Section 62 of the HSNO Act, a decision making committee may decide that grounds exist to reassess a hazardous substance after taking into account new information triggering a reassessment, for example, significant new information relating to the effects of a hazardous substance. The process of establishing grounds for reassessment is, hereafter, referred to as a formal justification for reassessment, which is the first step of a formal reassessment process.

<sup>3</sup> A hazardous substance can be a chemical or a formulation of different chemicals that meets hazardous classification criteria.

36. The proposed amendments to the HSNO Act will only take effect after the proposed amendments to the Methodology Order have taken effect.
37. The EPA's Chief Executive will make decisions on the appropriate process for changes to hazard classifications and corresponding controls in accordance with amendments to the Methodology Order.
38. Since December 2017, as a result of the 2015 Health and Safety at Work reforms, WorkSafe has been involved in the EPA's hazardous substances assessment and reassessment processes. WorkSafe may need to initiate a process to introduce or make changes to a Safe Work Instrument, to set workplace controls in accordance with the HSWA and its regulations.
39. WorkSafe has specific data and scientific information needs that are required prior to introducing or changing controls on hazardous substances in the workplace. These different requirements require full and early information sharing and cooperation between the two regulators to achieve the full benefits of the two proposals above.
40. The two proposals above may also have operational and resource implications on WorkSafe if the number of assessments and reassessments involving workplace controls were to increase, or if information used by the EPA were not sufficient for WorkSafe to set workplace controls under the HSWA, and thus required WorkSafe to collect further information itself. The EPA and WorkSafe are expected to work on cooperation arrangements for hazardous substances assessments.

*Enabling the EPA to temporarily restrict certain uses of a hazardous substance*

41. Currently the HSNO Act allows the EPA to suspend approvals during a reassessment process if there is reasonable cause to believe there is significant actual or imminent danger to human health, safety, or the environment from the continued use of the hazardous substance (section 64). A suspension under this section can only be implemented after a public notification of a reassessment application.
42. The current threshold of "significant" actual or imminent danger is a very high and difficult bar to reach in practice. The impacts of a suspension on industry and end-users could be substantial if there are no alternatives to the suspended hazardous substances, which are important to industry or New Zealand as a whole.
43. Taking into consideration the consultation feedback, I propose no changes to section 64 but instead propose introducing a new provision into the HSNO Act to enable the EPA to temporarily restrict certain uses of a hazardous substance while it is being reassessed, subject to the following specific requirements:
  - i. there is evidence of potential actual or imminent danger to human health, safety, or the environment
  - ii. a restriction of certain uses<sup>4</sup> of hazardous substances could only be implemented after the formal justification for reassessment of that hazardous substance has been established

---

<sup>4</sup> The uses that may cause the concern of potential actual or imminent danger

- iii. the restriction will remain in place while the restricted hazardous substances are being reassessed, ie until a decision is made on the reassessment, or a decision is taken to not proceed with the reassessment, or the reassessment application is withdrawn
  - iv. the restriction will expire if the EPA did not submit a reassessment application within one year of the restriction decision taking effect
  - v. the EPA must consider hazardous substances that have been restricted as the highest priority when developing its work plan for reassessments.
44. Before taking the decision to restrict a hazardous substance temporarily, the EPA will be required to engage with persons who, in its opinion, would be likely to be directly affected by the decision.
45. Potential actual or imminent danger could be understood as the capacity to cause adverse impacts on human health, safety, or the environment if no immediate protections were put in place. Adverse impacts should be envisaged in an immediate future.
46. Evidence of potential danger to human health, safety, or the environment could come from domestic sources, such as an EPA assessment of related hazardous substances, or the results of peer-reviewed tests. It could also come from international channels, such as a trusted regulator's assessment and decision to prohibit or restrict certain uses of related chemicals or hazardous substances, which the EPA considers relevant to the New Zealand context. The actual scale of the adverse impacts on human health, safety, or the environment could be unclear when the action is taken but the restriction should be able to mitigate the impacts.

### ***Other improvements to the reassessment process***

#### *Enabling more targeted consultation during modified reassessments*

47. The HSNO Act allows the EPA to undertake a modified reassessment where it reviews only one or some specific aspects of an approval, excluding minor or technical amendments (Section 63A). A modified reassessment cannot revoke an approval. The current wording of section 63A requires the EPA to “do everything reasonably practicable on its part to consult with all persons who, in its opinion, may be affected by the reassessment”. This effectively means the EPA has to publicly notify modified reassessments in most cases.
48. I propose changes to section 63A to allow flexibility in targeted consultation for modified reassessments. The EPA should only be required to consult with all persons who, in its opinion, may be directly affected by the modified reassessment. Section 63C, which provides a modified reassessment process to change controls following a change in the hazard classification system, or in controls in regulations, EPA controls, or controls under the Health and Safety at Work Act 2015, should also be changed accordingly for consistency.

#### *Requiring the EPA to develop a publicly available work plan for reassessments, with items on this work plan deemed to meet the reassessment criteria (grounds)*

49. The EPA undertakes an on-going prioritisation process to identify chemicals of current concern and in need of a review. I propose changes to the HSNO Act requiring the EPA to develop a publicly available work plan for reassessments, indicating the substances that meet the reassessment criteria (grounds).

50. I also propose changes to the Methodology Order to further specify the work plan and the criteria of chemicals that should be included. The work plan may indicate the priority order and timeframes of up-coming reassessments and updates of controls.

51. The EPA will need to formally justify the reassessment of any hazardous substances before deciding to temporarily restrict certain uses of those hazardous substances.

*Enabling the EPA to align the timeframes of the assessments and reassessments of related hazardous substances*

52. The EPA sometimes receives an application for a new hazardous substance containing a chemical or substance that is already being reassessed. Currently, the EPA is required to process the new application separately from the reassessment. A decision could be made on the new hazardous substance before the reassessment of the related chemical or substance is completed. The new approval would then likely be reviewed, to reflect the reassessment decision.

53. In this situation, for efficiency and consistency, I propose changes to the HSNO Act to enable the EPA to align the timeframes for processing and decision-making of new and existing hazardous substances with related chemicals or substances. For the purpose of this paper, 'related chemicals or substances' are those with the same or very similar active ingredient.

54. The alignment of timeframes of the processes means the EPA will have the ability to extend the timeframe of one or more of the related applications so that the related applications would be heard at the same time and place, and be decided on the same date. This will bring benefits of consistency and efficiency that are likely to outweigh any potential costs to the applicants who have to wait for another related application's decision.

*Providing a simplified process for updating controls on existing hazardous substances in a situation where the EPA has undertaken a recent assessment of a related hazardous substance*

55. Sometimes the assessment of a new hazardous substance may require the updating of controls on existing hazardous substances that have related chemicals or substances, including the same active ingredient. Transferred hazardous substances<sup>5</sup> are likely to fall into this situation, as controls from the previous regime can be obsolete in light of new information. Currently, the update must follow a modified reassessment process with a formal justification for reassessment, consultation, and hearings if requested.

Proposed amendments to the HSNO Act

56. I propose amendments to the HSNO Act to:

- i. allow the EPA to follow a simplified process ('a process of updating hazardous substances controls') to update controls on existing hazardous substances in a situation where the EPA has undertaken a recent assessment of a related hazardous substance

---

<sup>5</sup> Hazardous substances legally present in New Zealand before 2001 were transferred into the new hazardous substances regime in 2001

- ii. specify that the process of updating hazardous substances controls will not require the formal justification for reassessment
- iii. allow the EPA to have discretion over consultation when making these changes
- iv. specify that when the EPA decides not to undertake a consultation, the decision-making power will be delegated to the EPA's Chief Executive.

#### Proposed amendments to the Methodology Order

57. To implement the above amendments to the HSNO Act, I also propose amendments to the Methodology Order to:
- i. set the criteria for the EPA's discretion over consultation and the extent of consultation
  - ii. require the EPA to be more transparent about its work plan for these updates and resultant decisions with underpinning evidence and rationale.
58. The proposed amendments to the HSNO Act will only take effect after the proposed amendments to the Methodology Order have taken effect.
59. The EPA's Chief Executive will make decisions on the appropriate process for these controls updates in accordance with amendments to the Methodology Order.
60. The EPA will be able to update controls on one or many hazardous substances at a time but controls of any approval will not be updated more than once a year, following this simplified process. Decision makers will have discretion over setting an appropriate transitional time for compliance with updated controls.

#### **Consultation**

61. These proposals have been developed by a joint MfE and EPA project team.
62. The following agencies have been consulted: Department of Internal Affairs, Department of Conservation, Ministry of Business, Innovation and Employment, WorkSafe, Ministry of Health, Ministry for Primary Industries, Ministry of Justice, Ministry of Foreign Affairs and Trade, Te Puni Kōkiri, and Treasury.
63. The Department of Prime Minister and Cabinet has been informed of the contents of this paper.
64. We received feedback with support for the content of the paper from Department of Conservation, Ministry of Business, Innovation and Employment, Ministry of Health, Ministry for Primary Industries, Treasury, and WorkSafe. We have addressed questions raised by those agencies.

#### **Financial implications**

65. It is difficult to accurately quantify the benefits of these proposals. A cost benefit analysis commissioned by MfE showed the monetised benefit from these proposals could be under \$10 million to the economy over 10 years. However, the non-monetised benefits to human health, safety, and the environment from a more timely and greater number of assessments and reassessments will generate positive effects.
66. The proposal to temporarily restrict certain uses of a hazardous substance could financially impact the chemical industry and end-users, especially where there are no suitable alternatives for restricted hazardous substances. I propose specific

requirements for the restriction power to manage the potential impacts while still enabling the EPA to respond to potential actual or imminent danger to human health, safety, or the environment (see paragraph 43 and 44).

67. Full and early information sharing and cooperation between WorkSafe and the EPA is required to achieve the potential benefits of these proposals. The proposals may have operational and resource impacts on WorkSafe because WorkSafe is largely relying on information from HSNO applications to set workplace controls.
68. The EPA has also sought budget funding to support its assessment and reassessment programme in Budget 2020.

### **Legislative implications**

69. This paper proposes amendments to the HSNO Act 1996. A bid was submitted for the 2020 Legislation Programme for this purpose, with a priority of category 4 – to be referred to a select committee in 2020.
70. This paper also seeks Cabinet approval to begin a regulatory process to amend the Methodology Order to support the implementation of the proposals.

### **Regulatory impact analysis**

71. The Ministry for the Environment's Regulatory Impact Analysis Panel has reviewed the attached RIA (Appendix 2) prepared by the Ministry for the Environment.
72. The panel considers that it partially meets the quality assurance criteria. The panel states "the RIA contains required information, and clearly sets out objectives and criteria. There is evidence of consultation on the proposals and consideration of feedback from consultation. The analysis is constrained by a narrow problem definition relating to "trusted regulator" proposals, although this scope is clearly described. A range of impacts have been identified, but may be incomplete. Implementation relies on development of a secondary instrument (Methodology Order), and the RIA indicates that further implications will be assessed as part of that process."

### **Human rights**

73. There are no inconsistencies between any of the proposals in this paper and the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

### **Gender implications**

74. There are no gender implications for this paper.

### **Disability perspective**

75. There are no disability perspective implications for this paper.

### **Publicity**

76. Interested parties will have another opportunity to provide feedback on these proposals through select committee processes.
77. Proposed amendments to the Methodology Order will also require public consultation (led by the EPA), which will provide additional opportunity for stakeholders to be involved in developing the criteria and process of applying

information from trusted regulators, criteria for the EPA's discretion over consultation, and the EPA's work plan.

78. To support transparent decision-making, this paper will be made publicly available on MfE's website, following final Cabinet decisions.

### **Proactive Release**

79. I propose to proactively release this Cabinet paper and the attached Regulatory Impact Assessment on MfE's website, following final Cabinet decisions.

80. The release is subject to redactions as appropriate under the Official Information Act 1982.

### **Recommendations**

The Minister for the Environment recommends that the Committee:

1. **note** that the current assessments and reassessments can be time-consuming and resource-intensive, and the process for making minor changes to existing approvals is disproportionate
2. **note** that Cabinet agreed for the Ministry for the Environment (MfE) to consult on proposed improvements to the assessments and reassessments of hazardous substances under the Hazardous Substances and New Organisms (HSNO) Act 1996
3. **note** the Hazardous substances assessments: Improving decision-making – Summary of submissions report attached as Appendix 1
4. **agree** to these proposed amendments to the HSNO Act:
  - 4.1. enabling the Environmental Protection Authority (EPA) to apply data, information, assessments, and decisions from trusted regulators with a consideration of the New Zealand context (with consultation at its discretion, except in particular circumstances)
  - 4.2. enabling the EPA to make changes to hazard classifications and corresponding controls, based on a trusted regulator's assessment and decision to change the hazard classifications, following a simplified process of updating hazardous substances controls without the need to formally justify the reassessment (no grounds step) and with discretion over consultation (subject to specific requirements)
  - 4.3. enabling the EPA to temporarily restrict certain uses of a hazardous substance after the formal justification for reassessment of that hazardous substance (grounds) has been established, where there is evidence of potential actual or imminent danger to human health, safety, or the environment (subject to specific requirements)
  - 4.4. enabling more targeted consultation during modified reassessments by amending the consultation requirements in section 63A and section 63C
  - 4.5. requiring the EPA to develop a publicly available work plan for reassessments, with items on this work plan deemed to meet the reassessment criteria (grounds)

- 4.6. enabling the EPA to align the timeframes of the assessment and reassessment of related hazardous substances if an application of a new hazardous substance is made while a reassessment of related hazardous substances is already happening
- 4.7. enabling the EPA to update controls on existing hazardous substances following a process of updating hazardous substances controls without the need to formally justify the reassessment (no grounds step) and with discretion over consultation (subject to specific requirements), in a situation where the EPA has undertaken a recent assessment of a related hazardous substance
- 4.8. delegating decision-making power to the EPA's Chief Executive on applications where the EPA decides not to consult, or is not required to consult when applying information from trusted regulators or from a recent EPA assessment (in recommendations 4.1, 4.2, and 4.7).
5. **agree** to initiating a regulatory process to amend the Hazardous Substances and New Organisms (Methodology Order) 1998 to:
  - 5.1. set the criteria and process for identifying international regulators whom the EPA can trust (trusted regulators)
  - 5.2. specify the assessment and reassessment processes when the EPA applies information from trusted regulators
  - 5.3. specify other requirements on the way the EPA applies information from trusted regulators
  - 5.4. set the criteria for the EPA's discretion over consultation in processes mentioned in recommendations 4.1, 4.2, and 4.7
  - 5.5. require the EPA to be more transparent about its work plan and decisions.
6. **note** that after changes to the HSNO Act are made, the EPA will be invited to undertake a consultation on proposed changes to the Methodology Order
7. **note** the proposed changes to the Methodology Order will be brought to Cabinet for approval following the EPA's consultation
8. **agree** to proactively release this Cabinet paper and the updated Regulatory Impact Assessment on MfE's website, following final Cabinet decisions
9. **invite** the Minister for the Environment to issue drafting instructions to the Parliamentary Counsel Office to give effect to the proposed amendments to the HSNO Act
10. **authorise** the Minister for the Environment to make minor or technical changes to the proposals outlined in this Cabinet paper during the drafting process that are consistent with the agreed policy
11. **invite** the Minister for the Environment to report back to the Cabinet Legislation Committee with a draft bill.

Authorised for lodgement.

Hon David Parker

**Minister for the Environment**