



# Cabinet Environment, Energy and Climate Committee

## Minute of Decision

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### Hazardous Substances and New Organisms Act 1996: Proposed Amendments

Portfolio                      Environment

On 25 June 2020, the Cabinet Environment, Energy and Climate Committee:

- 1        **noted** 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        **noted** that on 24 July 2019, the Cabinet Economic Development Committee agreed that consultation be undertaken on proposed improvements to the assessments and reassessments of hazardous substances under the Hazardous Substances and New Organisms (HSNO) Act 1996 [DEV-19-MIN-0194];
- 3        **noted** the Hazardous substances assessments: Improving decision making – Summary of submissions report attached as Appendix 1 to the paper under ENV-20-SUB-0020;
- 4        **agreed** to the following 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, referred to in paragraphs 4.1, 4.2, and 4.7 above;
- 5 **agreed** 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 referred to in paragraphs 4.1, 4.2, and 4.7 above;
  - 5.5 require the EPA to be more transparent about its work plan and decisions;
- 6 **noted** 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 **noted** that the proposed changes to the Methodology Order will be brought to the Cabinet Environment, Energy and Climate Committee for approval following the EPA's consultation;
- 8 **invited** 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;
- 9 **authorised** the Minister for the Environment to make minor or technical changes to the proposals outlined in the paper attached under ENV-20-SUB-0020 during the drafting process that are consistent with the agreed policy;

- 10 **invited** the Minister for the Environment to report back to the Cabinet Legislation Committee with a draft bill.

Vivien Meek  
Committee Secretary

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**Present:**

Hon David Parker (Chair)  
Hon Nanaia Mahuta  
Hon Damien O'Connor  
Hon Eugenie Sage

**Officials present from:**

Officials Committee for ENV

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