



Cabinet Legislation Committee

Minute of Decision

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Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Bill: Approval for Introduction

Portfolio Environment

On 8 July 2021, the Cabinet Legislation Committee:

- 1 **noted** that the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Bill holds a category 3 priority on the 2021 Legislation Programme (to be passed if possible within the year);
- 2 **noted** that the Bill seeks to improve the assessment and reassessment of hazardous substances;
- 3 **noted** the decisions taken within the scope of the Minister for the Environment's delegation to make minor or technical changes are set out in paragraph 12 of the paper under LEG-21-SUB-0104 [ENV-20-MIN-0020];
- 4 **noted** that the Minister proposes to not progress the amendment to the Methodology Order but has provided for all matters in primary legislation;
- 5 **noted** that the consultation criteria for the new processes to improve the assessment and reassessment of hazardous substances will now be set in primary legislation rather than in the Methodology Order;
- 6 **agreed** that the consultation pathway for the new modified reassessment processes will be that:
 - 6.1 the Environmental Protection Authority (EPA) may decide to publicly notify the application under section 53;
 - 6.2 if the EPA does not publicly notify the application, the EPA must consult if it considers that the application will have:
 - 6.2.1 significant cultural, economic, environmental, ethical, health or international effects; or
 - 6.2.2 significant effects in an area in which the EPA lacks sufficient knowledge or expertise;

- 6.3 if the EPA consults it must:
- 6.3.1 do everything reasonably practicable on its part to consult with all persons who, in its opinion, are likely to be directly affected by the reassessment; and
 - 6.3.2 give those persons a reasonable opportunity to make submissions and comments to the EPA on the reassessment; and
 - 6.3.3 consider all submissions and comments received before approving or declining the application. If the EPA is not required to consult, the EPA may consult with any person before approving or declining the application;
- 7 **agreed** that the consultation requirements for the existing modified rapid assessment processes (sections 63A and 63C) are slightly modified to align with the new consultation pathways for the new section 63D reassessment processes (this in addition to the amendments agreed to by Cabinet last year to allow for a more targeted consultation in these existing processes) [ENV-20-MIN-0020];
- 8 **noted** that the criteria for identifying comparable international regulators will now be set in primary legislation rather than in the Methodology Order;
- 9 **agreed** that the criteria for choosing international regulators are that:
- 9.1 the international regulator operates in a manner comparable to the EPA in regulating hazardous substances; and
 - 9.2 the legislative regime regulating hazardous substances that the international regulator operates in is comparable to the Hazardous Substances and New Organisms (HSNO) Act; and
 - 9.3 the information from the international regulator is readily accessible by the EPA;
- 10 **agreed** that the EPA may prescribe, by notice in the Gazette, one or more international regulators on whose information it may rely. The EPA must follow the above criteria when choosing the international regulators;
- 11 **agreed** that a new penalty be added to section 114 of the HSNO Act for breach of the offence prescribed by section 109(1)(da) of the HSNO Act (this is to correct an omission made in 2015 when the offence was created without a corresponding penalty);
- 12 **agreed** that the HSNO Act be amended to refer in the relevant places to section 103A (this is to correct another omission made in 2015);
- 13 **agreed** that the HSNO Act be amended to clarify that the Ministerial call-in powers in section 68 apply to reassessments (this is to clarify an ambiguity);
- 14 **approved** for introduction the Hazardous Substances and New Organisms (Assessments) Amendment Bill [PCO 21845/1.21], subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 15 **agreed** that the Bill be introduced in August 2021;

16 **agreed** that the government propose that the Bill be:

16.1 referred to the Environment Select Committee for consideration;

16.2 enacted by the end of 2021.

Rebecca Davies
Committee Secretary

Present:

Hon Andrew Little
Hon Poto Williams
Hon Michael Wood
Hon Kiri Allan
Hon Dr David Clark
Kieran McAnulty MP

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

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