



Hazardous Substances and New Organisms (Organisms Prescribed as Not New Organisms) Amendment Regulations 2022

Date Submitted:	2/9/2022	Tracking #: BRF-2054	
Security Level	Policy and Privacy In-Confidence	MfE Priority:	Urgent

	Action sought:	Response by:
Hon David Parker, Minister for the Environment	Approve the Cabinet paper to be lodged with the Cabinet Legislation Committee	

Actions for Minister's Office Staff	Lodge the Cabinet paper with the LEG committee. Return the signed report to MfE.
Number of appendices and attachments	Nil
0	

Key contacts

Position	Name	Cell phone	1st contact
Principal Author	Andy Morgan	027 328 9032	✓
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Director	Glenn Wigley	027 491 7806	

Hazardous Substances and New Organisms (Organisms Prescribed as Not New Organisms) Amendment Regulations 2022

1. This briefing accompanies a draft Cabinet Legislation Committee paper on reclassifying two organisms as “not new” under the Hazardous Substances and New Organisms Act 1996 (HSNO Act).
2. The purpose of this briefing is to advise you:
 - of the statutory requirements to be fulfilled before you can recommend making regulations to reclassify organisms as “not new”
 - to recommend to Cabinet that the Hazardous Substances and New Organisms (Organisms Prescribed as Not New Organisms) Amendment Regulations 2022 (the Regulations) be submitted to Executive Council. This will result in reclassification of the two organisms as “not new” under the HSNO Act.
3. The Regulations give effect to policy approved by the Cabinet Environment, Energy and Climate Committee [Cabinet Environment, Energy and Climate Committee Minute ENV-22-MIN-0032 refers].
4. The Regulations reclassify the following two organisms as “not new” under the HSNO Act by amending the Hazardous Substances and New Organisms (Organisms Prescribed as Not New Organisms) Regulations 2009:
 - the beetle *Paropsisterna cloelia*
 - the bacterium *Paenibacillus alvei*.
5. A waiver of the 28-day rule is being sought so that the regulations can come into force as soon as possible. This waiver is sought on the grounds that:
 - in the case of both organisms, the Regulations would have little or no effect on the public
 - in the case of *Paropsisterna cloelia*, any delay in commencement is likely to defeat the purpose of the Regulations.
6. One of the objectives of this reclassification is to allow research on pest organisms already present in New Zealand to gain a better understanding of their impacts on the environment and the health and safety of people and communities.
7. Research by the University of Canterbury was planned to be undertaken on the beetle *Paropsisterna cloelia* in this year’s spring and summer seasons. However, recent observations in the field have found beetle activity commencing 4 to 6 weeks earlier than that observed last year, likely due to warmer weather.
8. As such, fieldwork will be required to be bought forward to enable collection of beetle eggs. Any delay in these regulations coming into force would adversely affect the commencement of this research.

Statutory obligations

9. Under the HSNO Act, you must fulfil certain prerequisites before you can recommend the making of regulations to reclassify organisms as “not new”.
 - a. You must consider:¹
 - i. whether the organism in question has formed a self-sustaining population in New Zealand
 - ii. whether any person is attempting to manage, control or eradicate the organism under any Act.
 - b. You must also request the EPA to:²
 - i. advise all persons that could be affected by the regulations about the proposal to reclassify organisms as “not new”, and give these persons reasonable opportunity to make submissions
 - ii. advise you about any submissions received and the EPA’s view on the submissions and the proposed regulations
 - iii. advise you on the best international practices for the safe management of new organisms.
 - c. You must consider the submissions and comments received from the EPA and the EPA’s advice on best international practices.³
 - d. You must also ‘recognise and provide for’ the principles in section 5 of the HSNO Act and take into account the matters in sections 6 to 8.
2. The reclassification of an organism as “not new” must also be consistent with the purpose of the HSNO Act.⁴
3. On 30 May 2022, Ministry for the Environment provided you with advice on your statutory requirements [BRF-1315 refers]. You confirmed on 26 June 2022 (in response to BRF-1315) that you considered you had met your statutory obligations.

Next steps

4. The next steps are for PCO to complete the drafting of the Regulations, and then for the Cabinet paper to be considered by the Cabinet Legislation Committee.

Recommendations

We recommend that you:

- a. **Note** that on 11 August 2022 the Cabinet Environment, Energy and Climate Committee, agreed that the following two organisms be reclassified as “not new”

¹ Section 140(2) of the HSNO Act.

² Section 141(1)-(2) of the HSNO Act.

³ Section 141(1) of the HSNO Act.

⁴ Section 4 of the HSNO Act.

under the HSNO Act, by amending the Hazardous Substances and New Organisms (Organisms Prescribed as Not New) Regulations 2009:

- i. the beetle *Paropsisterna cloelia*;
 - ii. the bacterium *Paenibacillus alvei*.
- b. **Agree** that a waiver of the 28-day rule is sought so that the regulations can come into force as soon as possible, on the grounds that the Regulations would have little or no effect on the public and, in the case of the beetle *Paropsisterna cloelia*, any delay in commencement is likely to defeat the purpose of the Regulations.

Yes/No

- c. **Agree** to recommend to Cabinet the submission to the Executive Council of the Hazardous Substances and New Organisms (Organisms Prescribed as Not New Organisms) Amendment Regulations 2022.

Yes/No

Signature

Glenn Wigley Director - Policy and Regulatory Waste and Resource Efficiency Date	
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Hon David Parker Minister for the Environment Date	
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