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ENVIRONMENTAL RISK MANAGEMENT AUTHORITY

HAZARDOUS SUBSTANCES
(MISCELLANEOUS TRANSFERS)
TRANSFER NOTICE 2006

PURSUANT TO THE HAZARDOUS SUBSTANCES
AND NEW ORGANISMS ACT 1996

Hazardous Substances and New Organisms Act 1996

Hazardous Substances (Miscellaneous Transfers) Transfer Notice 2006

Pursuant to section 160A of the Hazardous Substances and New Organisms Act 1996 (in this notice referred to as **the Act**), the Environmental Risk Management Authority gives the following notice.

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1 Title

This notice is the Hazardous Substances (Miscellaneous Transfers) Transfer Notice 2006.

2 Commencement

This notice comes into force on 1 July 2006.

3 Interpretation

In this notice, unless the context otherwise requires,—

- (a) words and phrases have the meanings ascribed to them in the Act and in regulations made under the Act; and
- (b) the following words and phrases have the following meanings:

UN Model Regulations means the 14th revised edition of the Recommendation on the Transport of Dangerous Goods Model Regulations, published in 2005 by the United Nations.

variation code, in relation to a substance described in Schedule 1, means a number set out in the column entitled “variation code(s)” opposite the description of the substance in Schedule 1.

4 Deemed assessment and approval

- (1) On the commencement of this notice, the hazardous substances described in Schedule 1 are no longer subject to the provisions of Parts 11 to 15 of the Act.
- (2) Each hazardous substance described in Schedule 1 is deemed to have been assessed and approved by the Authority under section 29 of the Act.

5 Deemed hazard classification

Each hazardous substance described in Schedule 1 is deemed to have the hazard classifications specified opposite its description in Schedule 1.

6 Application of controls and changes to controls

- (1) The controls that apply to the hazardous substances described in Schedule 1 are as follows:
 - (a) the Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001, with the changes indicated in Schedule 2:
 - (b) the Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001, with the changes indicated in Schedule 2:
 - (c) the Hazardous Substances (Packaging) Regulations 2001, with the changes indicated in Schedule 2:
 - (d) the Hazardous Substances (Disposal) Regulations 2001:
 - (e) the Hazardous Substances (Tracking) Regulations 2001, with the changes indicated in Schedule 2:
 - (f) the Hazardous Substances and New Organisms (Personnel Qualifications) Regulations 2001:
 - (g) the Hazardous Substances (Emergency Management) Regulations 2001, with the changes indicated in Schedule 2:
 - (h) the Hazardous Substances (Identification) Regulations 2001:
 - (i) the Hazardous Substances (Compressed Gases) Regulations 2004:
 - (j) the Hazardous Substances (Tank Wagon and Transportable Containers) Regulations 2004:
 - (k) the controls for stationary container systems set out in Schedule 8 to the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004 (*Gazette*, 2004, No 35, p 767), with the changes indicated in Schedule 2 to this notice:
 - (l) the controls for the adverse effects of unintended ignition of class 2 and class 3.1 hazardous substances set out in Schedule 10 to the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004 (*Gazette*, 2004, No 35 p 767), with the changes indicated in Schedule 2 to this notice.

- (2) Subclause (1)(k) applies despite clause 1(1) of Schedule 8 to the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004.
- (3) Subclause (1)(l) applies despite clause 1 of Schedule 10 to the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004.

7 Other obligations and restrictions

The obligations and restrictions specified in Schedule 3 (transitional controls) are imposed as controls under section 160B of the Act applying to the hazardous substances described in Schedule 1.

8 Exposure limits

- (1) Exposure limits are adopted for a hazardous substance described in Schedule 1 (or any component of the substance) to the extent (if at all) that they are set out on the register of exposure limits.
- (2) In the case of Workplace Exposure Standard (WES), where a WES value does not exist on the register of exposure limits but is listed in the document referred to in subclause (3), the value or values specified in that document shall apply to the substance or any component of the substance.
- (3) The document referred to in subclause (2) is the document entitled “Workplace Exposure Standards”, published by the Occupational Safety and Health Service, Department of Labour, January 2002, ISBN 0-477-03660-0.

Schedule 1

List of substances to be transferred

Explanatory notes to Schedule 1: These notes are not part of the notice, but are intended to assist in understanding its scheme.

- **Variation codes 1 to 3** relate to a change to regulations 56, 89 and 107 (approved handler requirements) of the Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001.
- **Variation codes 4 and 5** relate to a change to regulation 9 (approved handler requirements) of the Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001.
- **Variation code 6** relates to a change to regulation 32 (environmental exposure limits) of the Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001.
- **Variation code 7** relates to changes to regulation 19 (packaging requirements for toxic substances) of the Hazardous Substances (Packaging) Regulations 2001.
- **Variation codes 8 and 9** relate to changes to regulation 36 (secondary containment), 37 and 38 (surface containers) of the Hazardous Substances (Emergency Management) Regulations 2001.

Substance	Hazard Classification(s)	Variation code(s)
Aquaregia (hydrochloric acid, 75% and nitric acid, 25%)	6.1B, 6.9B, 8.1A, 8.2B, 8.3A, 9.1D, 9.3C	5, 6, 8, 9
ATL Catalysts	5.2E, 6.1C, 6.6B, 6.9A, 8.2B, 8.3A, 9.1B, 9.3C	3, 5, 6, 8
Catalyst Cumene Hydroperoxide	5.2E, 6.1B, 6.6B, 6.9A, 8.2B, 8.3A, 9.1B, 9.3B	3, 5, 6, 8
Formula 524A	5.1.1B, 6.1D, 6.5A, 6.5B, 6.6A, 6.7A, 6.8B, 6.9B, 8.1A, 8.2B, 8.3A, 9.1B, 9.2C, 9.3C	2, 5, 6, 8
Fuel, >30% diethyl ether, >40% kerosene	3.1B, 6.1E, 6.3B, 6.4A, 9.1B	1, 6, 8
Fuel, >60% methanol, <25% nitromethane	3.1B, 6.1D, 6.4A, 6.7B, 6.8B, 6.9A, 9.3C	1, 6, 8
HEEF 25 NC Conversion	5.1.1B, 6.1C, 6.3A, 6.4A, 6.5A, 6.5B, 6.6A, 6.7A, 6.8A, 6.9B, 9.1B, 9.2C, 9.3C	2, 5, 6, 8
Kemsol Score Dishwash Powder	5.1.1B, 6.1C, 6.9B, 8.2C, 8.3A, 9.1B, 9.2C	2, 5, 6
MacDermid Bronze Plating Salts	6.1A, 6.5B, 6.8B, 6.9A, 8.1A, 8.2B, 8.3A, 9.1B, 9.2B, 9.3A	5, 6, 7
No More Big Gaps	2.1.2A, 6.1C, 6.3B, 6.4A, 6.9A	1, 4

Substance	Hazard Classification(s)	Variation code(s)
Okemcoat F1	5.1.1B, 6.1D, 6.5A, 6.5B, 6.6A, 6.7A, 6.8B, 8.1A, 8.2B, 8.3A, 9.1B, 9.2C, 9.3C	2, 5, 6, 8
OZ Foam Marine/Sika Boom	6.1B, 6.3A, 6.4A, 6.5A, 6.5B, 6.9A	4
Pollyfilla Expanding Foam	2.1.2A, 6.1C, 6.3B, 6.5A, 6.5B, 6.9A	1, 4
Sodium dichromate, 3 – 6% and sulphuric acid, 0.5 – 5% aqueous solution	5.1.1B, 6.1C, 6.5A, 6.5B, 6.6A, 6.7A, 6.8A, 6.9A, 8.2C, 8.3A, 9.1A, 9.2C, 9.3C	2, 5, 6, 8
Tetraethyl lead 60 – 100% and 1,2 dibromoethane 30 – 60%	3.1D, 6.1A, 6.3A, 6.4A, 6.7A, 6.8A, 6.9A, 9.1A, 9.3A	5, 6, 8, 9

Schedule 2

Changes to controls

**Control – Hazardous
Substances (Classes 1 to 5
Controls) Regulations 2001 Changes to Controls**

New regulation 56A

The regulations apply to each hazardous substance described in Schedule 1 with variation code 1 as if the following regulation were inserted immediately after regulation 56:

56A Exception to approved handler requirements for transportation of packaged classes 2 and 3 substances

- (1) Regulation 56 is deemed to be complied with if—
- (a) in the case of a hazardous substance being transported on land—
 - (i) in the case of a hazardous substance being transported by rail, the person who drives the rail vehicle that is transporting the substance is fully trained in accordance with an approved safety system under section 6D of the Transport Services Licensing Act 1989 or a safety system which is referred to in an approved safety case under the Railways Act 2005; and
 - (ii) in every other case, the person who drives, loads, and unloads the vehicle that is transporting the substance—
 - (A) for hire or reward, or in quantities which exceed those set out in Schedule 1 of the Land Transport Rule 45001/1: Dangerous Goods 2005, has a current dangerous goods endorsement on his or her driver licence; or
 - (B) in every other case, the Land Transport Rule 45001/1: Dangerous Goods 2005 is complied with; or
 - (b) in the case of a hazardous substance being transported by sea, one of the following is complied with:
 - (i) Maritime Rules: Part 24A – Carriage of Cargoes – Dangerous Goods (MR024A):
 - (ii) International Maritime Dangerous Goods Code; or

(c) in the case of a hazardous substance being transported by air, Part 92 of the Civil Aviation Rules is complied with.

(2) Subclause (1)(a)—

(a) does not apply to a tank wagon or a transportable container to which the Hazardous Substances (Tank Wagons and Transportable Containers) Regulations 2004 applies; but

(b) despite paragraph (a), does apply to an intermediate bulk container that complies with chapter 6.5 of the UN Model Regulations.

(3) Subclause (1)(c)—

(a) applies to pilots, aircrew, and airline ground personnel loading and handling a hazardous substance within an aerodrome; but

(b) does not apply to the storage and handling of a hazardous substance in any place that is not within an aerodrome or within an aerodrome by non-airline ground personnel.

Regulation 72

Subclause (1) of this regulation does not apply to class 4.1.1 hazardous substances and the corresponding references to class 4.1.1 substances in Table 6 of Schedule 3 to the regulations are repealed.

Regulation 81

This regulation applies to class 2 and class 3.1 hazardous substances as if, at the end of paragraph (g), the expression “.” were omitted and the following substituted:

“; and”

and as if, after paragraph (g), the following were inserted:

(h) the requirements of Schedule 10 (controls relating to the adverse effects of unintended ignition of class 2 and class 3.1 hazardous substances) to the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004 are complied with.

New regulation 89A

The regulations apply to each hazardous substance described in Schedule 1 with variation code 2 as if the following regulation were inserted immediately after regulation 89:

89A Exception to approved handler requirements for transportation of packaged class 5.1.1 substances

(1) Regulation 89 is deemed to be complied with if—

- (a) in the case of a hazardous substance being transported on land—
 - (i) in the case of a hazardous substance being transported by rail, the person who drives the rail vehicle that is transporting the substance is fully trained in accordance with an approved safety system under section 6D of the Transport Services Licensing Act 1989 or a safety system which is referred to in an approved safety case under the Railways Act 2005; and
 - (ii) in every other case, the person who drives, loads, and unloads the vehicle that is transporting the substance—
 - (A) for hire or reward, or in quantities which exceed those set out in Schedule 1 of the Land Transport Rule 45001/1: Dangerous Goods 2005, has a current dangerous goods endorsement on his or her driver licence; or
 - (B) in every other case, the Land Transport Rule 45001/1: Dangerous Goods 2005 is complied with; or
 - (b) in the case of a hazardous substance being transported by sea, one of the following is complied with:
 - (i) Maritime Rules: Part 24A – Carriage of Cargoes – Dangerous Goods (MR024A):
 - (ii) International Maritime Dangerous Goods Code; or
 - (c) in the case of a hazardous substance being transported by air, Part 92 of the Civil Aviation Rules is complied with.
- (2) Subclause (1)(a)—
- (a) does not apply to a tank wagon or a transportable container to which the Hazardous Substances (Tank Wagons and Transportable Containers) Regulations 2004 applies; but
 - (b) despite paragraph (a), does apply to an intermediate bulk container that complies with chapter 6.5 of the UN Model Regulations.

(3) Subclause (1)(c)—

- (a) applies to pilots, aircrew, and airline ground personnel loading and handling a hazardous substance within an aerodrome; but
- (b) does not apply to the storage and handling of a hazardous substance in any place that is not within an aerodrome or within an aerodrome by non-airline ground personnel.

Regulation 95

This regulation applies to class 5.1.1 substances as if, in regulation 95(1)(c), after “ignition sources”, “but excluding electrical equipment” were inserted.

This regulation applies to class 5.1.1 substances as if, regulation 95(1)(f) were omitted and the following substituted:

- (f) the location is designed and managed so that any moisture or any vapour, gas, or particulate matter of class 5.1.1 substances does not present a hazard in respect of electrical equipment that may be present.

New regulation 107A

The regulations apply to each hazardous substance described in Schedule 1 with variation code 3 as if the following regulation were inserted immediately after regulation 107:

107A Exception to approved handler requirements for transportation of packaged class 5.2 substances

(1) Regulation 107 is deemed to be complied with if—

- (a) in the case of a hazardous substance being transported on land—
 - (i) in the case of a hazardous substance being transported by rail, the person who drives the rail vehicle that is transporting the substance is fully trained in accordance with an approved safety system under section 6D of the Transport Services Licensing Act 1989 or a safety system which is referred to in an approved safety case under the Railways Act 2005; and
 - (ii) in every other case, the person who drives, loads, and unloads the vehicle that is transporting the substance—
 - (A) for hire or reward, or in quantities which exceed those set out in Schedule 1 of the Land Transport Rule 45001/1: Dangerous

Goods 2005, has a current dangerous goods endorsement on his or her driver licence; or

(B) in every other case, the Land Transport Rule 45001/1: Dangerous Goods 2005 is complied with; or

(b) in the case of a hazardous substance being transported by sea, one of the following is complied with:

(i) Maritime Rules: Part 24A – Carriage of Cargoes – Dangerous Goods (MR024A):

(ii) International Maritime Dangerous Goods Code; or

(c) in the case of a hazardous substance being transported by air, Part 92 of the Civil Aviation Rules is complied with.

(2) Subclause (1)(a)—

(a) does not apply to a tank wagon or a transportable container to which the Hazardous Substances (Tank Wagons and Transportable Containers) Regulations 2004 applies; but

(b) despite paragraph (a), does apply to an intermediate bulk container that complies with chapter 6.5 of the UN Model Regulations.

(3) Subclause (1)(c)—

(a) applies to pilots, aircrew, and airline ground personnel loading and handling a hazardous substance within an aerodrome; but

(b) does not apply to the storage and handling of a hazardous substance in any place that is not within an aerodrome or within an aerodrome by non-airline ground personnel.

**Control – Hazardous
Substances (Classes 6, 8,
and 9 Controls)
Regulations 2001**

Regulation 9

New regulation 9A

Changes to Controls

This regulation applies to each hazardous substance listed in Schedule 1 with variation code 4 as if regulation 9 was omitted.

The regulations apply to each hazardous substance described in Schedule 1 with variation code 5 as if the following regulation were inserted immediately after regulation 9:

9A Exception to approved handler requirements for transportation of packaged class 6 substances

- (1) Regulation 9 is deemed to be complied with if—
- (a) in the case of a hazardous substance being transported on land—
 - (i) in the case of a hazardous substance being transported by rail, the person who drives the rail vehicle that is transporting the substance is fully trained in accordance with an approved safety system under section 6D of the Transport Services Licensing Act 1989 or a safety system which is referred to in an approved safety case under the Railways Act 2005; and
 - (ii) in every other case, the person who drives, loads, and unloads the vehicle that is transporting the substance—
 - (A) for hire or reward, or in quantities which exceed those set out in Schedule 1 of the Land Transport Rule 45001/1: Dangerous Goods 2005, has a current dangerous goods endorsement on his or her driver licence; or
 - (B) in every other case, the Land Transport Rule 45001/1: Dangerous Goods 2005 is complied with; or
 - (b) in the case of a hazardous substance being transported by sea, one of the following is complied with:
 - (i) Maritime Rules: Part 24A – Carriage of Cargoes – Dangerous Goods (MR024A):
 - (ii) International Maritime Dangerous Goods Code; or
 - (c) in the case of a hazardous substance being transported by air, Part 92 of the Civil Aviation Rules is complied with.
- (2) Subclause (1)(a)—
- (a) does not apply to a tank wagon or a transportable container to which the Hazardous Substances (Tank Wagons and Transportable Containers) Regulations 2004 applies; but

- (b) despite paragraph (a), does apply to an intermediate bulk container that complies with chapter 6.5 of the UN Model Regulations.

(3) Subclause (1)(c)—

- (a) applies to pilots, aircrew, and airline ground personnel loading and handling a hazardous substance within an aerodrome; but
- (b) does not apply to the storage and handling of a hazardous substance in any place that is not within an aerodrome or within an aerodrome by non-airline ground personnel.

Regulation 32

This regulation applies to each hazardous substance described in Schedule 1 with variation code 6 as if subclauses (1) and (2) were omitted.

**Control – Hazardous
Substances (Packaging)
Regulations 2001**

Changes to Controls

Regulation 19

This regulation applies to each hazardous substance described in Schedule 1 with variation code 7 as if “Schedule 1” in subclause (1)(a) were omitted and the following substituted:

Schedule 2

**Control – Hazardous
Substances (Emergency
Management) Regulations
2001**

Changes to Controls

Regulation 36

This regulation applies to each hazardous substance described in Schedule 1 with variation code 8 as if the following subclauses were inserted immediately after subclause (3):

- (4) For the purposes of this regulation, and regulations 37 to 40, any hazardous substance contained in pipework that is installed and operated so as to manage any loss of containment in the pipework—
 - (a) is not to be taken into account in determining whether a place is required to have a secondary containment system; and
 - (b) is not required to be located in a secondary containment system.

- (5) In this clause, **pipework**—
- (a) means piping that—
 - (i) is connected to a stationary container; and
 - (ii) is used to transfer a hazardous substance into or out of the stationary container; and
 - (b) includes a process pipeline or a transfer line.

Regulation 37

This regulation applies to each hazardous substance described in Schedule 1 with variation code 9 as if the following subclauses were inserted at the end:

- (2) If the pooling substance is held in a place above ground in containers each of which has a capacity of 60 litres or less,—
- (a) if the place's total pooling potential is less than 20,000 litres, the secondary containment system must have a capacity of at least 25% of that total pooling potential:
 - (b) if the place's total pooling potential is 20,000 or more, the secondary containment system must have a capacity of the greater of—
 - (i) 5% of the total pooling potential; or
 - (ii) 5,000 litres.
- (3) Pooling substances to which subclause (2) applies, must be segregated where appropriate to ensure that the leakage of one substance may not adversely affect the container of another substance.

Regulation 38

This regulation applies to each hazardous substance described in Schedule 1 with variation code 9 as if the following subclauses were inserted at the end:

- (2) If the pooling substance is held in a place above ground in containers one or more of which has a capacity of more than 60 litres but none of which have a capacity of more than 450 litres,—
- (a) if the place's total pooling potential is less than 20,000 litres, the secondary containment system must have a capacity of either 25% of that total pooling potential or 110% of the capacity of the largest container, whichever is the greater:

- (b) if the place's total pooling potential is 20,000 litres or more, the secondary containment system must have a capacity of the greater of—
 - (i) 5% of the total pooling potential; or
 - (ii) 5,000 litres.
- (3) Pooling substances to which subclause (2) applies, must be segregated where appropriate to ensure that the leakage of one substance may not adversely affect the container of another substance.

**Control – Hazardous
Substances (Tracking)
Regulations 2001**

Regulations 4 to 6

Changes to Controls

The regulations apply to each hazardous substance described in Schedule 1 with variation code 4 as if regulations 4 to 6 were omitted.

**Control – Schedule 8 to
the Hazardous
Substances (Dangerous
Goods and Scheduled
Toxic Substances)
Transfer Notice 2004**

Clause 1

Changes to Controls

Omit subclause (1) and substitute the following:

This Schedule applies to every stationary container system that contains, or is intended to contain a hazardous substance described in Schedule 1 to the Hazardous Substances (Miscellaneous Transfers) Transfer Notice 2006.

Clause 100

This clause applies to each hazardous substance described in Schedule 1 as if subclause (1) were omitted and the following substituted:

- (1) In this Part, **existing stationary container system** means a stationary container system to which this Schedule applies that, immediately before 1 July 2006,—
 - (a) was being used to contain a substance described in Schedule 1 to the Hazardous Substances (Miscellaneous Transfers) Transfer Notice 2006; or

- (b) was designed to be used to contain a substance described in that Schedule, and construction of the stationary container system to that design had commenced.

**Control – Schedule 10 to
the Hazardous
Substances (Dangerous
Goods and Scheduled
Toxic Substances)
Transfer Notice 2004**

Changes to Controls

Clause 1

Omit this clause and substitute the following:

This Schedule applies to every class 2 and class 3.1 hazardous substance described in Schedule 1 to the Hazardous Substances (Miscellaneous Transfers) Transfer Notice 2006; and

Clause 33

This clause applies to each hazardous substance described in Schedule 1 as if “Subject to subclause (2)” in subclause (1) were omitted.

This clause applies to each hazardous substance described in Schedule 1 as if subclause (2) were omitted.

Schedule 3

Transitional controls

Contents

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1 Purpose of Schedule

- (1) The purpose of this Schedule is to provide for a transitional period to allow persons dealing with hazardous substances described in Schedule 1 to comply with the Act, and controls under the Act, in relation to those hazardous substances.
- (2) This Schedule achieves the purpose described in subclause (1) by—
 - (a) providing that, for a period of 6 months from the commencement of this notice, a person may comply with the obligations and restrictions that applied to those hazardous substances immediately before the commencement of this notice, as if this notice (other than this Schedule) had not been given; and
 - (b) providing for obligations and restrictions to continue to apply after the expiry of that 6 month period in order to progressively impose the requirements of the Act, and controls under the Act, in relation to those hazardous substances.

2 Persons may comply with Act and controls at any time

Except as specifically provided in this Schedule, this Schedule does not prevent a person from complying with the Act, and controls under the Act, as if this Schedule did not exist.

3 Substances and locations to which Schedule does not apply

- (1) Nothing in this Schedule applies to any of the following:
 - (a) a hazardous substance that was not lawfully used in New Zealand immediately before 1 July 2006:
 - (b) a hazardous substance location that was not in use immediately before 1 July 2006:
 - (c) a hazardous substance at a hazardous substance location if the substance was not permitted to be stored at the location immediately before 1 July 2006.

- (2) Nothing in this Schedule applies in any way to substitute, override or remove any existing obligation or restriction imposed on a substance to which this notice applies or any other substance approved under the Act (howsoever approved).
- (3) Notwithstanding subclause (2), the requirements of this Schedule apply if those requirements are—
 - (a) for a substance of a different hazard class; or
 - (b) for a substance of the same class where the quantities held at any time up to and immediately before 1 July 2006 never exceeded the relevant threshold quantities specified in the regulations set out in subclause (4) for the relevant obligation or restriction.
- (4) The regulations are—
 - (a) Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001; and
 - (b) Hazardous Substances (Emergency Management) Regulations 2001; and
 - (c) Hazardous Substances (Identification) Regulations 2001.

4 Compliance with obligations and restrictions as at 1 July 2006 for transitional period

- (1) A person complies with the Act in relation to a hazardous substance described in Schedule 1, if the person complies with all obligations and restrictions that were in force in relation to the hazardous substance as at the close of 1 July 2006.
- (2) This subclause is subject to any other provision of this Schedule.
- (3) This clause expires with the close of 31 December 2006.

5 Transitional provision for hazardous substance locations

- (1) This clause applies to every licence granted or deemed to be granted by the Authority under section 217 of the Act, and every provisional licence granted under section 218 of the Act, that is in force immediately before the close of 30 June 2006.
- (2) Every licence to which this clause applies continues in force for the purposes of this Schedule.
- (3) On and from 1 January 2007 every licence to which this clause applies is deemed to be a test certificate issued under—
 - (a) in the case of a class 2.1.2, or 3.1 substance, regulation 81 of the Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001; or
 - (b) in the case of a class 4 substance, regulation 82 of those regulations; or
 - (c) in the case of a class 5 substance, regulation 98 or regulation 120 of those regulations.

6 Full test certificate for hazardous substance location

The holder of a test certificate referred to in clause 5(3) must obtain a test certificate issued by a test certifier no later than the close of 31 December 2007.

7 Existing stationary container systems

- (1) In this clause, **existing stationary container system** means a stationary container system to which Schedule 8 to the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004 applies that, immediately before 1 July 2006,—
 - (a) was being used to contain a substance described in Schedule 1; or
 - (b) was designed to be used to contain such a substance and construction of the stationary container system to that design had commenced.
- (2) An existing stationary container system is not required to comply with the provisions of Schedule 8 to the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004 (except as required under this clause) if—
 - (a) it is used—
 - (i) in the case of a stationary container system to which subclause (1)(a) applies, for the purpose for which it was used immediately before 1 July 2006; or
 - (ii) in the case of a stationary container system to which subclause (1)(b) applies, for the purpose for which it was designed; and
 - (b) the person in charge of it complies with clauses 101 to 103 of Part 20 of Schedule 8 to the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004 (if required) provided that clauses 101 to 103 shall be read as if references therein to “this notice” are references to this notice.
- (3) Despite subclause (2), Part 18 and Part 19 of Schedule 8 to the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004 apply to any repair, alteration, or maintenance performed on an existing stationary container system the subject of this clause.

8 Existing secondary containment system for stationary tank or process container

- (1) In this clause, **existing stationary tank or process container** means a stationary tank or process container that was in use immediately before 1 July 2006.
- (2) During the period commencing on 1 July 2006 and ending with the close of 30 June 2009, an existing stationary tank or process container to which regulations 39 or 40 of the Hazardous Substances (Emergency Management) Regulations 2001 apply, complies with those regulations if it complies with the requirements for a secondary containment system that applied to it immediately before 1 July 2006.
- (3) On and from the end of the period specified in subclause (2), an existing stationary tank or process container must comply with—
 - (a) regulation 39 of the Hazardous Substances (Emergency Management) Regulations 2001, if that regulation applies; or
 - (b) regulation 40 of the Hazardous Substances (Emergency Management) Regulations 2001, if that regulation applies; or

- (c) a compliance plan; or
 - (d) a code of practice approved by the Authority under section 78 of the Act for the purposes of this clause.
- (4) A person may apply to the Authority for approval of a compliance plan in relation to an existing stationary tank or process container setting out—
- (a) a programme for bringing the stationary tank or process container into compliance with regulations 39 or 40 of the Hazardous Substances (Emergency Management) Regulations 2001; or
 - (b) variations to the requirements of those regulations, compliance with which may be deemed to be compliance with those regulations; or
 - (c) both.
- (5) On receiving an application under subclause (4), the Authority must—
- (a) approve the compliance plan to which the application relates; or
 - (b) decline to approve it.
- (6) Compliance with this clause is deemed to be compliance with regulations 39 and 40 of the Hazardous Substances (Emergency Management) Regulations 2001 for the purposes of:
- (a) clause 92(2)(c) and 92(2)(d) of Schedule 8 to the Hazardous Substances (Dangerous Goods and Scheduled Toxic Substances) Transfer Notice 2004; and
 - (b) regulations 81(f), 82(h), 99(j) and 121(j) of the Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001.

9 Approved handlers

- (1) Where any regulation specified in subclause (3) requires that something be done in relation to a hazardous substance described in Schedule 1 by an approved handler, that regulation is complied with if that thing is done by a person who establishes, that he or she, during the whole of a qualifying period referred to in subclause (2), has been handling the hazardous substance concerned or any other substance with similar hazardous properties in the relevant phase of its lifecycle under one or more of the enactments relevant to that handling referred to in regulation 6(1) of the Hazardous Substances and New Organisms (Personnel Qualifications) Regulations 2001.
- (2) For the purposes of subclause (1) a **qualifying period** is any consecutive 2 year period commencing on or after 2 July 1999 and ending on or before the close of 1 July 2006.
- (3) The regulations are—
- (a) regulations 56, 60(2), 77(3), 81(b), 83(1)(b), 89, 94(4), 99(b), 101(1)(c), 107, 116(4), 121(b) and 124(1)(c) of the Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001;

- (b) regulation 9 of the Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001; and
 - (c) regulation 6(a) of the Hazardous Substances (Tracking) Regulations 2001.
- (4) This clause expires with the close of 31 December 2008.

10 Packaging

- (1) Packaging of a hazardous substance described in Schedule 1 is not required to comply with the Hazardous Substances (Packaging) Regulations 2001 if it complies with the requirements for packaging that applied to the hazardous substance at the close of 1 July 2006.
- (2) This clause expires with the close of 30 June 2008.

11 Identification, documentation, and signage

- (1) A person is not required to comply with the regulations specified in subclause (2) in relation to a hazardous substance described in Schedule 1 if the person complies with the requirement for identification, documentation, and signage in relation to that substance that applied to the hazardous substance at the close of 1 July 2006.
- (2) The regulations are—
- (a) the Hazardous Substances (Identification) Regulations 2001; and
 - (b) regulations 11 to 14 of the Hazardous Substances (Disposal) Regulations 2001; and
 - (c) regulations 6 to 20 and 42 of the Hazardous Substances (Emergency Management) Regulations 2001.
- (3) This clause expires with the close of 30 June 2008.

12 Fire extinguishers, emergency management response plans, and secondary containment

- (1) A person in charge of a place where a hazardous substance described in Schedule 1 is present is not required to comply with regulations 21 to 41 of the Hazardous Substances (Emergency Management) Regulations 2001 in relation to that substance if that person complies with the requirements for fire extinguishers, emergency management response plans and secondary containment that applied in relation to the substance at the close of 1 July 2006.
- (2) Notwithstanding subclause (1), the requirements for secondary containment in respect of an existing stationary tank or a process container (as those terms are defined in clause 8(1) of this Schedule) are those set out in clause 8 of this Schedule.
- (3) This clause expires with the close of 30 June 2007.

13 Transitional provisions for licences to sell or pack poisons

- (1) This clause applies to every licence granted or deemed to be granted for the purposes of section 200 of the Act that is in force immediately before 1 July 2006.
- (2) Every licence to which this clause applies continues in force for the purposes of this Schedule.
- (3) This clause expires with the close of 31 December 2006.