

Industrial Chemicals (Notification and Assessment) Amendment (Reforms) Regulations 2019

I, General the Honourable Sir Peter Cosgrove AK MC (Ret’d), Governor‑General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 04 April 2019

Peter Cosgrove

Governor‑General

By His Excellency’s Command

Bridget McKenzie

Minister for Regional Services, Sport, Local Government and Decentralisation

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1 Name

This instrument is the *Industrial Chemicals (Notification and Assessment) Amendment (Reforms) Regulations 2019*.

2 Commencement

(1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | The later of:  (a) the start of the day after this instrument is registered; and  (b) immediately after the commencement of Schedule 1 to the *Industrial Chemicals (Notification and Assessment) Amendment Act 2019*.  However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. | 6 April 2019  (paragraph (a) applies) |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

(2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Industrial Chemicals (Notification and Assessment) Act 1989.*

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Part 1—Amendments

Industrial Chemicals (Notification and Assessment) Regulations 1990

1 Regulation 2

Insert:

***high concern reactive functional group***: see clause 3 of Schedule 3.

***low concern reactive functional group***: see clause 1 of Schedule 3.

***moderate concern reactive functional group***: see clause 2 of Schedule 3.

2 Regulations 4A, 4B and 4CA

Repeal the regulations, substitute:

4A *Polymer of low concern*—number average molecular weight greater than or equal to 1,000 and less than 10,000 (Act s 5)

(1) For the purposes of subparagraph (a)(i) of the definition of ***polymer of low concern***in subsection 5(1) of the Act, the characteristics relating to weight for a polymer that has a number average molecular weight that is greater than or equal to 1,000, but less than 10,000, are set out in this regulation.

General

(2) The polymer must:

(a) have less than 10% by mass of molecules with molecular weight that is less than 500; and

(b) have less than 25% by mass of molecules with molecular weight that is less than 1,000.

Polymers that include moderate concern reactive functional groups and do not include high concern reactive functional groups

(3) In addition to the characteristics mentioned in subregulation (2), if the polymer includes moderate concern reactive functional groups, and does not include high concern reactive functional groups, the polymermust have a combined functional group equivalent weight of at least 1,000.

(4) In calculating the weight mentioned in subregulation (3), all moderate concern reactive functional groups included in the polymer must be taken into account.

Polymers that include high concern reactive functional groups

(5) In addition to the characteristics mentioned in subregulation (2), if the polymer includes high concern reactive functional groups, the polymermust have a combined functional group equivalent weight of at least 5,000.

(6) In calculating the weight mentioned in subregulation (5), the following must be taken into account:

(a) all moderate concern reactive functional groups included in the polymer;

(b) all high concern reactive functional groups included in the polymer.

4B *Polymer of low concern*—number average molecular weight that is 10,000 or greater (Act s 5)

For the purposes of subparagraph (a)(i) of the definition of ***polymer of low concern***in subsection 5(1) of the Act, the characteristics relating to weight for a polymer that has a number average molecular weight that is 10,000 or greater are that the polymer must:

(a) have less than 2% by mass of molecules with molecular weight that is less than 500; and

(b) have less than 5% by mass of molecules with molecular weight that is less than 1,000.

3 Before subregulation 4I(1)

Insert:

(1A) For the purposes of paragraph (f) of the definition of ***polymer of low concern*** in subsection 5(1) of the Act, the characteristics set out in this regulation are prescribed.

4 Subregulation 4I(1)

Omit “For paragraph (f) of the definition of ***polymer of low concern*** in section 5 of the Act, a polymer”, substitute “A polymer”.

5 Subregulations 4I(2) and (3)

Omit “For paragraph (f) of that definition, a polymer”, substitute “A polymer”.

6 At the end of regulation 4I

Add:

(4) A polymer must not contain as an integral part of its composition (except as an impurity) a chain (whether branched or linear) of fully fluorinated carbon atoms, at least one end of which is terminated by a perfluoromethyl (CF3) group.

7 After subregulation 6AB(1B)

Insert:

(1C) For the purposes of subparagraph 21(6)(d)(ii) of the Act, the requirements set out in subregulations (7A), (8) and (9) are prescribed.

8 Subregulation 6AB(5A)

Repeal the subregulation.

9 Subparagraph 6AB(7)(a)(i)

Omit “(5A)”, substitute “(5)”.

10 Subparagraph 6AB(7)(b)(i)

Omit “and (5A)”.

11 Schedule 3

Repeal the Schedule, substitute:

Schedule 3—Reactive functional groups

Note: See the definitions of ***low concern reactive functional group***, ***moderate concern reactive functional group*** and ***high concern reactive functional group*** in regulation 2.

1 Low concern reactive functional groups

A reactive functional group mentioned in the following table is a ***low concern reactive functional group***.

| Low concern reactive functional groups | |
| --- | --- |
| Item | Reactive functional group |
| 1 | Aliphatic hydroxyls |
| 2 | Blocked isocyanates (including ketoxime‑blocked isocyanates) |
| 3 | Butenedioic acid groups |
| 4 | Carboxylic acids |
| 5 | Conjugated olefinic groups contained in naturally occurring fats, oils and carboxylic acids |
| 6 | Halogens (except reactive halogen‑containing groups such as benzylic or allylic halides) |
| 7 | Thiols |
| 8 | Unconjugated nitriles |
| 9 | Unconjugated olefinic groups considered “ordinary” (that is, unconjugated olefinic groupsnot specifically activated by being part of a larger functional group or by other activating influences) |

2 Moderate concern reactive functional groups

A reactive functional group mentioned in the following table is a ***moderate concern reactive functional group***.

| Moderate concern reactive functional groups | |
| --- | --- |
| Item | Reactive functional group |
| 1 | Acid anhydrides |
| 2 | Acid halides |
| 3 | Aldehydes |
| 4 | Alkoxysilanes (with alkoxy greater than C2‑alkoxysilane) |
| 5 | Allyl ethers |
| 6 | Conjugated olefinic groups not contained in naturally occurring fats, oils and carboxylic acids |
| 7 | Cyanates |
| 8 | Epoxides |
| 9 | Hemiacetals |
| 10 | Imines (ketimines and aldimines) |
| 11 | Methylol‑amides |
| 12 | Methylol‑amines |
| 13 | Methylol‑ureas |
| 14 | Unsubstituted positions ortho and para to phenolic hydroxyl |

3 High concern reactive functional groups

A reactive functional group mentioned in the following table is a ***high concern reactive functional group***.

| High concern reactive functional groups | |
| --- | --- |
| Item | Reactive functional group |
| 1 | Alkoxysilanes (with alkoxy of C1‑ or C2‑ alkoxysilane) |
| 2 | Alpha lactones |
| 3 | Aziridines |
| 4 | Beta lactones |
| 5 | Carbodi‑imides |
| 6 | Halosilanes |
| 7 | Hydrazines |
| 8 | Hydrosilanes |
| 9 | Isocyanates |
| 10 | Isothiocyanates |
| 11 | Partially‑hydrolysed acrylamides |
| 12 | Pendant acrylates |
| 13 | Pendant methacrylates |
| 14 | Vinyl sulfones or analogous compounds |
| 15 | Any other reactive functional group that is not a low concern reactive functional group or a moderate concern reactive functional group |

12 Part 1 of Schedule 4 (after table item 111)

Insert:

|  |  |  |
| --- | --- | --- |
| 111A | 1,4‑Cyclohexanedicarboxylic acid | 1076‑97‑7 |

13 Part 1 of Schedule 4 (after table item 116)

Insert:

|  |  |  |
| --- | --- | --- |
| 116A | 2,5‑Furandione, dihydro‑ | 108‑30‑5 |

14 Part 1 of Schedule 4 (after table item 121)

Insert:

|  |  |  |
| --- | --- | --- |
| 121A | 5‑Isobenzofurancarboxylic acid, 1,3‑dihydro‑1,3‑dioxo‑ | 552‑30‑7 |
| 121B | 1,3‑Isobenzofurandione | 85‑44‑9 |

15 Part 1 of Schedule 4 (at the end of the table)

Add:

|  |  |  |
| --- | --- | --- |
| 131 | Unsaturated fatty acids, C18, dimers, hydrogenated | 68783‑41‑5 |

16 Part 2 of Schedule 4 (after table item 204)

Insert:

|  |  |  |
| --- | --- | --- |
| 204A | Ethanol | 64‑17‑5 |

17 Part 2 of Schedule 4 (after table item 206)

Insert:

|  |  |  |
| --- | --- | --- |
| 206A | Methanol | 67‑56‑1 |

18 Part 2 of Schedule 4 (after table item 209)

Insert:

|  |  |  |
| --- | --- | --- |
| 209A | 1‑Propanol, 2‑methyl‑ | 78‑83‑1 |

19 Part 3 of Schedule 4 (after table item 302)

Insert:

|  |  |  |
| --- | --- | --- |
| 302A | Castor oil | 8001‑79‑4 |
| 302B | Castor oil, dehydrated | 64147‑40‑6 |
| 302C | Castor oil, dehydrated, polymerised | 68038‑02‑8 |

20 Part 3 of Schedule 4 (after table item 303)

Insert:

|  |  |  |
| --- | --- | --- |
| 303A | Coconut oil, hydrogenated | 84836‑98‑6 |

21 Part 3 of Schedule 4 (after table item 304)

Insert:

|  |  |  |
| --- | --- | --- |
| 304A | Corn‑oil fatty acids | 68308‑50‑9 |

22 Part 3 of Schedule 4 (after table item 312)

Insert:

|  |  |  |
| --- | --- | --- |
| 312A | Fatty acids, C8‑10 | 68937‑75‑7 |
| 312B | Fatty acids, C14‑18 and C16‑18‑unsaturated | 67701‑06‑8 |

23 Part 3 of Schedule 4 (after table item 317)

Insert:

|  |  |  |
| --- | --- | --- |
| 317A | Fatty acids, olive‑oil | 92044‑96‑7 |

24 Part 3 of Schedule 4 (after table item 324)

Insert:

|  |  |  |
| --- | --- | --- |
| 324A | Fish oil | 8016‑13‑5 |

25 Part 3 of Schedule 4 (after table item 326)

Insert:

|  |  |  |
| --- | --- | --- |
| 326A | Hexadecanoic acid | 57‑10‑3 |
| 326B | 9‑Hexadecenoic acid, (9Z)‑ | 373‑49‑9 |

26 Part 3 of Schedule 4 (table item 328)

Repeal the table item, substitute:

|  |  |  |
| --- | --- | --- |
| 328A | Hexanoic acid, 3,3,5‑trimethyl | 23373‑12‑8 |
| 328 | Hexanoic acid, 3,5,5‑trimethyl | 3302‑10‑1 |

27 Part 3 of Schedule 4 (after table item 330)

Insert:

|  |  |  |
| --- | --- | --- |
| 330A | Linseed oil, polymerised | 67746‑08‑1 |

28 Part 3 of Schedule 4 (after table item 331)

Insert:

|  |  |  |
| --- | --- | --- |
| 331A | Octadecanoic acid | 57‑11‑4 |
| 331B | 9‑Octadecenoic acid (9Z)‑ | 112‑80‑1 |
| 331C | 9,12‑Octadecadienoic acid (9Z,12Z)‑ | 60‑33‑3 |

29 Part 3 of Schedule 4 (after table item 335)

Insert:

|  |  |  |
| --- | --- | --- |
| 335A | Olive oil | 8001‑25‑0 |

30 Part 4 of Schedule 4 (after table item 408)

Insert:

|  |  |  |
| --- | --- | --- |
| 408A | 1,3‑Propanediol | 504‑63‑2 |

31 At the end of Schedule 4

Add:

Part 5—Derivatives

1 Derivatives

The following table sets out substances that are derivatives of substances set out in Parts 1 and 3 of this Schedule.

| Derivatives | |
| --- | --- |
| Item | Substances |
| 1 | A diethyl or triethyl ester of a substance listed in Part 1 of this Schedule |
| 2 | A dimethyl or trimethyl ester of a substance listed in Part 1 of this Schedule |
| 3 | An anhydride of a substance listed in Part 1 or Part 3 of this Schedule |
| 4 | An ethyl ester of a substance listed in Part 1 or Part 3 of this Schedule |
| 5 | A methyl ester of a substance listed in Part 1 or Part 3 of this Schedule |

Part 2—Application provisions

Industrial Chemicals (Notification and Assessment) Regulations 1990

32 At the end of Schedule 5

Add:

2 Application of amendments made by Part 1 of Schedule 1 to the *Industrial Chemicals (Notification and Assessment) Amendment (Reforms) Regulations 2019*

General

(1) The amendments made by the amending regulations apply in relation to the introduction of new industrial chemicals on or after the commencement time.

Applications for permits and certificates

(2) Despite the amendments made by the amending regulations, these Regulations, as in force immediately before the commencement time, continue to apply in relation to an application for a permit or an assessment certificate made, but not finally determined, before the commencement time.

Definitions

(3) In this regulation:

***amending regulations*** means Part 1 of Schedule 1 to the *Industrial Chemicals (Notification and Assessment) Amendment (Reforms) Regulations 2019*.

***commencement time*** means the time that the amending regulations commence.