



# **Industrial Chemicals (General) Legislation Amendment (2021 Measures No. 1) Rules 2021**

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I, David Gillespie, Minister for Regional Health, make the following rules.

Dated 30 October 2021

David Gillespie  
Minister for Regional Health

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## 1 Name

This instrument is the *Industrial Chemicals (General) Legislation Amendment (2021 Measures No. 1) Rules 2021*.

## 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 Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	23 November 2021
2 Schedule 1, Part 1	The day after this instrument is registered.	23 November 2021
3 Schedule 1, Parts 2 and 3	10 December 2021.	10 December 2021
4 Schedule 1, Parts 4 and 5	The day after this instrument is registered.	23 November 2021
5 Schedule 1, Part 6	10 December 2021.	10 December 2021
6 Schedule 1, Parts 7 to 9	The day after this instrument is registered.	23 November 2021
7 Schedule 1, item 57	The day after this instrument is registered.	23 November 2021
8 Schedule 1, item 58	10 December 2021.	10 December 2021
9 Schedule 2	The day after this instrument is registered.	23 November 2021

Note: This table relates only to the provisions of this instrument as originally made.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 following:

- (a) the *Industrial Chemicals Act 2019*;
- (b) the *Industrial Chemicals (Consequential Amendments and Transitional Provisions) Act 2019*.

## 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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—Amendment of the Industrial Chemicals (General) Rules 2019**

### **Part 1—Requirements for industrial chemicals introduced at the nanoscale**

#### *Industrial Chemicals (General) Rules 2019*

##### **1·Subparagraphs 7(3)(c)(i) and (ii)**

Repeal the subparagraphs, substitute:

- (i) is a solid, or is in a dispersion, at the time of introduction; and
- (ii) consists of particles, in an unbound state or as an aggregate or agglomerate, where at least 50% (by number size distribution) of the particles have at least one external dimension in the nanoscale;

##### **2·Subparagraph 26(3)(d)(i)**

Repeal the subparagraph, substitute:

- (i) if subsection (3A) applies to the industrial chemical—10 kg; or

##### **3·Subparagraph 26(3)(d)(ii)**

After “otherwise”, insert “, and subject to subsection (3B)”.

##### **4·After subsection 26(3)**

Insert:

- (3A) This section applies to an industrial chemical if:
  - (a) the industrial chemical is a solid, or is in a dispersion, at the time of introduction and it consists of particles, in an unbound state or as an aggregate or agglomerate, where at least 50% (by number size distribution) of the particles have at least one external dimension in the nanoscale; or
  - (b) it had not been determined, at the time of introduction, whether the industrial chemical meets the description in paragraph (a).
- (3B) Subparagraph (3)(d)(ii) does not apply to the introduction of an industrial chemical by a person in a registration year if an amount of the industrial chemical to which paragraph (3A)(a) applies has been introduced by the person in the registration year.

##### **5·Subparagraphs 26(8)(c)(i) and (ii)**

Repeal the subparagraphs, substitute:

- (i) is a solid, or is in a dispersion, at the time of introduction; and
- (ii) consists of particles, in an unbound state or as an aggregate or agglomerate, where at least 50% (by number size distribution) of the particles have at least one external dimension in the nanoscale; and

##### **6·Subsection 27(2) (heading)**

Repeal the heading, substitute:

*Low volume introductions of industrial chemicals that are solely for use in research and development*

**7·Paragraph 27(2)(b)**

Repeal the paragraph, substitute:

(b) either:

- (i) the industrial chemical is a solid, or is in a dispersion, at the time of introduction and it consists of particles, in an unbound state or as an aggregate or agglomerate, where at least 50% (by number size distribution) of the particles have at least one external dimension in the nanoscale; or
- (ii) it had not been determined, at the time of introduction, whether the industrial chemical meets the description in subparagraph (i); and

**8·Subsection 27(3) (heading)**

Repeal the heading, substitute:

*Other introductions of industrial chemicals that are solely for use in research and development*

**9·Subparagraphs 27(3)(b)(i) and (ii)**

Repeal the subparagraphs, substitute:

- (i) is a solid, or is in a dispersion, at the time of introduction; and
- (ii) consists of particles, in an unbound state or as an aggregate or agglomerate, where at least 50% (by number size distribution) of the particles have at least one external dimension in the nanoscale; and

**10·Paragraph 27(3)(e)**

After “250 kg”, insert “, and no amount of the industrial chemical that meets the description in subparagraph (2)(b)(i) has been introduced by the person in the registration year”.

**11·Subsection 28(1) (table item 3, column headed “If ...”, subparagraphs (a)(i) and (ii))**

Repeal the subparagraphs, substitute:

- (i) is a solid, or is in a dispersion, at the time of introduction; and
- (ii) consists of particles, in an unbound state or as an aggregate or agglomerate, where at least 50% (by number size distribution) of the particles have at least one external dimension in the nanoscale; and

**12·Subsection 28(1) (table item 7, column headed “If ...”, subparagraphs (a)(i) and (ii))**

Repeal the subparagraphs, substitute:

- (i) is a solid, or is in a dispersion, at the time of introduction; and
- (ii) consists of particles, in an unbound state or as an aggregate or agglomerate, where at least 50% (by number size distribution) of the particles have at least one external dimension in the nanoscale; and

**13·Subsection 29(1) (table item 3, column headed “If ...”, subparagraphs (a)(i) and (ii))**

Repeal the subparagraphs, substitute:

- (i) is a solid, or is in a dispersion, at the time of introduction; and
- (ii) consists of particles, in an unbound state or as an aggregate or agglomerate, where at least 50% (by number size distribution) of the particles have at least one external dimension in the nanoscale; and

**14·Subsection 29(1) (table item 10, column headed “If ...”, subparagraphs (a)(i) and (ii))**

Repeal the subparagraphs, substitute:

- (i) is a solid, or is in a dispersion, at the time of introduction; and
- (ii) consists of particles, in an unbound state or as an aggregate or agglomerate, where at least 50% (by number size distribution) of the particles have at least one external dimension in the nanoscale; and

**15·After paragraph 48(2)(d)**

Insert:

- (da) if the industrial chemical is a solid, or is in a dispersion, at the time of introduction and the total volume of the industrial chemical introduced by the person in a registration year is greater than 10 kg—records to demonstrate that the industrial chemical does not consist of particles, in an unbound state or as an aggregate or agglomerate, where at least 50% (by number size distribution) of the particles have at least one external dimension in the nanoscale;

**16·After paragraph 48(3)(c)**

Insert:

- (ca) if the industrial chemical is a solid, or is in a dispersion, at the time of introduction and the total volume of the industrial chemical introduced by the person in a registration year is greater than 10 kg—a written undertaking from the chemical identity holder that:
  - (i) the industrial chemical does not consist of particles, in an unbound state or as an aggregate or agglomerate, where at least 50% (by number size distribution) of the particles have at least one external dimension in the nanoscale; and
  - (ii) the records to demonstrate this will be provided to the Executive Director if requested;

**17·Paragraph 55(2)(d)**

Repeal the paragraph, substitute:

- (d) if the industrial chemical is a solid, or is in a dispersion, at the time of introduction and the total volume of the industrial chemical introduced by the person in a registration year is greater than 100 kg—records to demonstrate that the industrial chemical does not consist of particles, in an unbound state or as an aggregate or agglomerate, where at least 50% (by number size distribution) of the particles have at least one external dimension in the nanoscale;



**18·Paragraph 55(3)(c)**

Omit “is a solid or is in a dispersion”, substitute “is a solid, or is in a dispersion, at the time of introduction”.

**19·Subparagraph 55(3)(c)(i)**

Repeal the subparagraph, substitute:

- (i) the industrial chemical does not consist of particles, in an unbound state or as an aggregate or agglomerate, where at least 50% (by number size distribution) of the particles have at least one external dimension in the nanoscale; and

## **Part 2—Pre-introduction reporting requirements for industrial chemicals introduced at the nanoscale**

### *Industrial Chemicals (General) Rules 2019*

#### **20·Subsection 41(2) (after table item 5)**

Insert:

- 5A If the industrial chemical is introduced by the person as a solid or in a dispersion—whether the industrial chemical is known to the person to consist of particles, in an unbound state or as an aggregate or agglomerate, where at least 50% (by number size distribution) of the particles have at least one external dimension in the nanoscale

## **Part 3—Declaration about permission to use international assessment report**

### *Industrial Chemicals (General) Rules 2019*

#### **21--Subsection 38(2) (table item 14)**

Repeal the item, substitute:

- 14 A declaration that:
- (a) the complete international assessment report for the industrial chemical is available and will be provided to the Executive Director if requested; and
  - (b) the person has permission to use the report

#### **22--Subsection 39(2) (table item 20)**

Repeal the item, substitute:

- 20 A declaration that:
- (a) the complete international assessment report for the industrial chemical is available and will be provided to the Executive Director if requested; and
  - (b) the person has permission to use the report

#### **23--Subsection 40(2) (table item 19)**

Repeal the table item, substitute:

- 19 A declaration that:
- (a) the complete international assessment report for the industrial chemical is available and will be provided to the Executive Director if requested; and
  - (b) the person has permission to use the report

## Part 4—Record keeping for listed introductions

### *Industrial Chemicals (General) Rules 2019*

#### **24··Section 46 (table item 2)**

Repeal the item, substitute:

- |   |  |   |
|---|--|---|
| 2 | a CAS number for the industrial chemical is not assigned, or the CAS number for the industrial chemical is not known to the person | (a) the CAS name for the industrial chemical; or<br>(b) both: <ul style="list-style-type: none"><li>(i) the names by which the industrial chemical is known to the person, or the names of all products containing the industrial chemical that are imported into Australia by the person; and</li><li>(ii) a written undertaking from the chemical identity holder that the CAS name and CAS number (if assigned) for the industrial chemical will be provided to the Executive Director, if requested, within 40 working days after the day the request is made</li></ul> |
|---|--|---|

## **Part 5—Record keeping for specified classes**

### ***Industrial Chemicals (General) Rules 2019***

#### **25··Subsection 51(4)**

After “and (3)”, insert “and subject to subsection (5)”.

#### **26··At the end of section 51**

Add:

(5) If:

(a) the person is required to keep records of the information (the ***relevant information***) mentioned in column 2 of item 2, 3 or 4 of the table in subsection (4), or paragraph (b) of column 2 of item 5 of that table; and

(b) the person does not know the relevant information;

the person must keep a written undertaking from the person who has the relevant information stating that the relevant information will be provided to the Executive Director if requested.

#### **27··Subsection 53(4)**

After “and (3)(k)”, insert “and subject to subsection (5)”.

#### **28··At the end of section 53**

Add:

(5) If:

(a) the person is required to keep records of the information (the ***relevant information***) mentioned in column 2 of item 2 or 3 of the table in subsection (4); and

(b) the person does not know the relevant information;

the person must keep a written undertaking from the person who has the relevant information stating that the relevant information will be provided to the Executive Director if requested.

#### **29··Subsection 54(4)**

After “and (3)(l)”, insert “and subject to subsection (5)”.

#### **30··At the end of section 54**

Add:

(5) If:

(a) the person is required to keep records of the information (the ***relevant information***) mentioned in column 2 of item 1, 2, 3 or 4 of the table in subsection (4), or paragraph (b) of column 2 of item 5 of that table; and

(b) the person does not know the relevant information;

the person must keep a written undertaking from the person who has the relevant information stating that the relevant information will be provided to the Executive Director if requested.

**31·Subsection 57(3)**

After “paragraph (2)(n)”, insert “and subject to subsection (4)”.

**32·At the end of section 57**

Add:

(4) If:

(a) the person is required to keep records of the information (the *relevant information*) mentioned in column 2 of item 2, 3, 4 or 5 of the table in subsection (3), or paragraph (b) of column 2 of item 6 of that table; and

(b) the person does not know the relevant information;

the person must keep a written undertaking from the person who has the relevant information stating that the relevant information will be provided to the Executive Director if requested.

## **Part 6—Record keeping for introductions that involve designated kinds of releases into the environment**

### *Industrial Chemicals (General) Rules 2019*

#### **33·Subsection 51(4) (table item 1)**

Repeal the item, substitute:

- |   |   |   |
|---|---|---|
| 1 | the introduction is of a kind mentioned in paragraph 7(2)(d) (involves a designated kind of release into the environment) | if practicable, information about the release into the environment, including:<br>(a) the location of the release into the environment (including all receiving water bodies); and<br>(b) the frequency of the release into the environment; and<br>(c) the quantity of the industrial chemical released to the environment |
|---|---|---|

#### **34·Subsection 53(4) (table item 1)**

Repeal the item, substitute:

- |   |   |   |
|---|---|---|
| 1 | the introduction is of a kind mentioned in paragraph 7(2)(d) (involves a designated kind of release into the environment) | if practicable, information about the release into the environment, including:<br>(a) the location of the release into the environment (including all receiving water bodies); and<br>(b) the frequency of the release into the environment; and<br>(c) the quantity of the industrial chemical released to the environment |
|---|---|---|

#### **35·Subsection 57(3) (table item 1)**

Repeal the item, substitute:

- |   |   |   |
|---|---|---|
| 1 | the introduction is of a kind mentioned in paragraph 7(2)(d) (involves a designated kind of release into the environment) | if practicable, information about the release into the environment, including:<br>(a) the location of the release into the environment (including all receiving water bodies); and<br>(b) the frequency of the release into the environment; and<br>(c) the quantity of the industrial chemical released to the environment |
|---|---|---|

## Part 7—Record keeping for internationally-assessed introductions

### *Industrial Chemicals (General) Rules 2019*

#### **36·Paragraph 52(2)(e)**

Repeal the paragraph, substitute:

- (e) records to demonstrate that the total volume of the industrial chemical introduced by the person in a registration year:
  - (i) does not exceed the volume specified in the pre-introduction report for the industrial chemical as the maximum volume of the industrial chemical the person intends to introduce in a registration year; and
  - (ii) does not exceed the volume of the industrial chemical assessed in the international assessment or evaluation;

#### **37·Paragraph 52(3)(d)**

Repeal the paragraph, substitute:

- (d) records to demonstrate that the total volume of the industrial chemical introduced by the person in a registration year:
  - (i) does not exceed the volume specified in the pre-introduction report for the industrial chemical as the maximum volume of the industrial chemical the person intends to introduce in a registration year; and
  - (ii) does not exceed the volume of the industrial chemical assessed in the international assessment or evaluation;

#### **38·Paragraph 54(2)(f)**

Repeal the paragraph, substitute:

- (f) records to demonstrate that the total volume of the industrial chemical introduced by the person in a registration year:
  - (i) does not exceed the volume specified in the pre-introduction report for the industrial chemical as the maximum volume of the industrial chemical the person intends to introduce in a registration year; and
  - (ii) does not exceed the volume of the industrial chemical assessed in the international assessment or evaluation;

#### **39·Paragraph 54(3)(e)**

Repeal the paragraph, substitute:

- (e) records to demonstrate that the total volume of the industrial chemical introduced by the person in a registration year:
  - (i) does not exceed the volume specified in the pre-introduction report for the industrial chemical as the maximum volume of the industrial chemical the person intends to introduce in a registration year; and
  - (ii) does not exceed the volume of the industrial chemical assessed in the international assessment or evaluation;



## **Part 8—Movement of industrial chemicals into or out of Australia**

### *Industrial Chemicals (General) Rules 2019*

#### **40·Subsection 25(2)**

Repeal the subsection, substitute:

*Introduction of industrial chemical subject to an international agreement or arrangement*

- (2) This subsection applies to the introduction of an industrial chemical by a person if the industrial chemical is listed in:
- (a) Annex III to the Rotterdam Convention; or
  - (b) Part 1 of Annex A, B or C to the Stockholm Convention;
- unless:
- (c) the industrial chemical is to be introduced solely for use in research or analysis; and
  - (d) the total volume of the industrial chemical introduced by the person in a registration year does not exceed 100 kg.

#### **41·Section 61 (table items 1 and 2)**

Repeal the items, substitute:

1	subsection 71(1) or 72(1) applies to the introduction of the industrial chemical	the name of the industrial chemical
2	subsection 73(1) applies to the export of the industrial chemical	the name of the industrial chemical

#### **42·Subsection 71(1)**

After “of the Act”, insert “and subject to subsection (1A) of this section”.

#### **43·After subsection 71(1)**

Insert:

- (1A) Subsection (1) does not apply to the introduction of an industrial chemical specified in subsection (2) by a person in a registration year if:
- (a) the industrial chemical is to be introduced solely for use in research or analysis; and
  - (b) the total volume of the industrial chemical introduced by the person in the registration year does not exceed 100 kg.

#### **44·Subsection 72(1)**

After “of the Act”, insert “and subject to subsection (1A) of this section”.

#### **45·After subsection 72(1)**

Insert:

- (1A) Subsection (1) does not apply to the introduction of tetraethyl lead by a person in a registration year if:
- (a) the tetraethyl lead is to be introduced solely for use in research or analysis; and
  - (b) the total volume of the tetraethyl lead introduced by the person in the registration year does not exceed 100 kg.

**46·Subsection 73(1)**

After “of the Act”, insert “and subject to subsection (1A) of this section”.

**47·After subsection 73(1)**

Insert:

- (1A) Subsection (1) does not apply to the export of an industrial chemical specified in subsection (2) by a person in a registration year if:
- (a) the industrial chemical is to be exported solely for use in research or analysis; and
  - (b) the total volume of the industrial chemical exported by the person in the registration year does not exceed 100 kg.

**48·Subsection 74(1)**

Repeal the subsection, substitute:

- (1) A person may apply, in writing, to the Executive Director for approval:
- (a) to introduce an industrial chemical to which subsection 71(1) or 72(1) applies; or
  - (b) to export an industrial chemical to which subsection 73(1) applies.

**49·After paragraph 75(2)(b)**

Insert:

- (ba) Australia’s obligations under relevant prescribed international agreements or prescribed international arrangements; and

**50·After subsection 75(4)**

Insert:

- (4A) If the decision is to approve the introduction or export of the industrial chemical, the notice under subsection (4):
- (a) must also include the following terms of the approval:
    - (i) the proper name for the industrial chemical;
    - (ii) the period for which the approval is in force;
    - (iii) any conditions relating to the introduction or export of the industrial chemical that are necessary to manage risks to human health or the environment from the introduction or export of the industrial chemical; and
  - (b) may include any other terms the Executive Director considers appropriate.

## **Part 9—Other amendments**

### ***Industrial Chemicals (General) Rules 2019***

#### **51·Subsection 6(3) (table item 5, columns 1 and 2)**

After “European”, insert “Commission”.

#### **52·Subsection 26(5) (table item 15)**

Repeal the item.

#### **53·Subsection 26(5) (table item 16, column headed “Item”)**

Omit “16”, substitute “15”.

#### **54·After paragraph 66(2)(g)**

Insert:

- (ga) subsection 80(2) (which deals with making the Inventory publicly available);
- (gb) subsection 82(1) (which deals with listing on the Inventory after 5 years);

#### **55·Section 79 (at the end of the table)**

Add:

3	A notice is given to a person under subsection 113(1) of the Act in relation to information included in an application under section 31, 43, 53, 62 or 88 of the Act	The day the notice is given	The earlier of: (a) the day a complete application in response to the notice is made under subsection 113(2) of the Act; and (b) the last day of the period specified in the notice in accordance with subsection 113(3) of the Act
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#### **56·Paragraph 3(2)(b) of Schedule 1**

After “personal use”, insert “, or end use in an air freshener”.

## **Part 10—Transitional provisions**

### *Industrial Chemicals (General) Rules 2019*

#### **57··After Chapter 7**

Insert:

## **Chapter 8—Application, saving and transitional provisions**

### **Part 1—Application provisions relating to the Industrial Chemicals (General) Legislation Amendment (2021 Measures No. 1) Rules 2021**

#### **80··Record keeping for listed introductions**

Item 2 of the table in section 46, as amended by Part 4 of Schedule 1 to the *Industrial Chemicals (General) Legislation Amendment (2021 Measures No. 1) Rules 2021*, applies in relation to an undertaking mentioned in that item that is given on or after the commencement of that Part.

#### **58··At the end of Part 1 of Chapter 8**

Add:

#### **81··Pre-introduction reports for reported introductions**

- (1) Subsection 41(2), as amended by Part 2 of Schedule 1 to the *Industrial Chemicals (General) Legislation Amendment (2021 Measures No. 1) Rules 2021*, applies in relation to a report given under subsection 97(1) of the Act, or varied under section 98 of the Act, on or after the commencement of that Part.
- (2) Subsections 38(2), 39(2) and 40(2), as amended by Part 3 of Schedule 1 to the *Industrial Chemicals (General) Legislation Amendment (2021 Measures No. 1) Rules 2021*, apply in relation to a report given under subsection 97(1) of the Act, or varied under section 98 of the Act, on or after the commencement of that Part.

## **Schedule 2—Amendment of the Industrial Chemicals (Consequential Amendments and Transitional Provisions) Rules 2019**

### ***Industrial Chemicals (Consequential Amendments and Transitional Provisions) Rules 2019***

#### **1·At the end of Division 4 of Part 2**

Add:

#### **20A·Listing on Inventory of conditions on transitioned assessment certificates**

- (1) This section applies in relation to an industrial chemical for which an assessment certificate:
  - (a) was taken to have been issued under the new law in accordance with item 11 of Schedule 2 to the transitional Act; or
  - (b) was issued under the new law in accordance with item 13 of Schedule 2 to the transitional Act.
- (2) Subsection 81(2) of the new law does not apply in relation to the listing of the industrial chemical on the Inventory under section 82 or 83 of the new law.

#### **2·Clause 1 of Schedule 1 (table items 1, 9, 39 and 64)**

Repeal the items.