



# **Industrial Chemicals (Notification and Assessment) Amendment (Inventory) Act 2011**

**No. 103, 2011**

**An Act to amend the *Industrial Chemicals (Notification and Assessment) Act 1989*, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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# Industrial Chemicals (Notification and Assessment) Amendment (Inventory) Act 2011

No. 103, 2011

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**An Act to amend the *Industrial Chemicals (Notification and Assessment) Act 1989*, and for related purposes**

[Assented to 26 September 2011]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Industrial Chemicals (Notification and Assessment) Amendment (Inventory) Act 2011*.

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*Industrial Chemicals (Notification and Assessment) Amendment (Inventory) Act 2011*      No. 103,  
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## **2 Commencement**

This Act commences on the day after this Act receives the Royal Assent.

## **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Industrial Chemicals (Notification and Assessment) Act 1989**

### **1 Subsection 5(1) (definition of *full public report*)**

Repeal the definition.

### **2 Subsection 5(1) (subparagraph (a)(i) of the definition of *new industrial chemical*)**

Omit “under section 13”, substitute “included in the Inventory under section 13 or subsection 15AB(1)”.

### **3 Subsection 5(1)**

Insert:

*public report* means a report prepared under section 34 as varied or modified in accordance with this Act.

### **4 Subsection 5(1) (definition of *summary report*)**

Repeal the definition.

### **5 Subsection 11(4)**

After “under section 13”, insert “or subsection 15AB(1)”.

### **6 After paragraph 12(3)(d)**

Insert:

- (da) each chemical included under subsection 15AB(1); and
- (db) any particulars included in the Inventory under subsection 15AB(1) in respect of a chemical included in the Inventory under that subsection; and

### **7 Paragraph 12(3)(f)**

Omit “or (e)”, substitute “, (da) or (e)”.

### **8 Paragraph 12(3)(g)**

Omit “or (e)”, substitute “, (da) or (e)”.

## 9 Paragraph 15A(b)

Omit “under section 13”, substitute “included in the Inventory under section 13 or subsection 15AB(1)”.

## 10 After Division 1 of Part 2

Insert:

### **Division 1A—Inclusion of previously regulated chemicals in Inventory**

#### **15AA Proposal to include previously regulated chemical in Inventory**

- (1) The Director may make a proposal to include or not to include a new industrial chemical in the Inventory if:
  - (a) the chemical was previously regulated; and
  - (b) there is no assessment certificate in force for the chemical; and
  - (c) the chemical is currently in use in Australia.
- Note: See subsection (9) for the definition of *previously regulated*.
- (2) The Director may include in a proposal the following particulars in respect of a chemical proposed to be included in the Inventory:
  - (a) particulars of any condition of use to which the importation or manufacture of the chemical is subject;
  - (b) particulars of any other condition to which the importation or manufacture of the chemical is subject;
  - (c) any other particulars in respect of the chemical that are prescribed by regulations for the purposes of this paragraph.
- (3) In making a proposal, the Director must consider whether the use of the chemical poses an unreasonable risk to occupational health and safety, public health or the environment.
- (4) The Director must give notice of a proposal in the Chemical Gazette.
- (5) The notice must state the following:
  - (a) the chemical name for the chemical;



- (b) the number assigned to the chemical by the service known as the Chemical Abstracts Service, or if that number is not available, the number that accords with an alternative numbering system;
  - (c) any name by which the chemical is commonly known;
  - (d) whether the Director proposes to include or not to include the chemical in the Inventory;
  - (e) the reasons why the Director proposes to include or not to include the chemical in the Inventory;
  - (f) if the Director proposes to include the chemical in the Inventory:
    - (i) any particulars that the Director proposes to include in respect of the chemical; and
    - (ii) the reasons why the Director proposes to include those particulars;
  - (g) that a person may give a statement to the Director, within 28 days after the date of publication of the notice, giving reasons why the person objects to the Director's proposal.
- (6) If the Director knows the name and address of a person who is introducing or proposes to introduce the chemical, the Director must send a copy of the notice to the person.
- (7) Once the 28 days mentioned in paragraph (5)(g) have passed, the Director must, having regard to any statements received, make a final decision:
- (a) to include or not to include the chemical in the Inventory; and
  - (b) if the Director decides to include the chemical in the Inventory—to include or not to include specified particulars in respect of the chemical.
- (8) The Director must:
- (a) publish a notice in the Chemical Gazette of the Director's final decision; and
  - (b) give a copy of the notice to any person who gave a statement.
- (9) For the purposes of subsection (1), a chemical was ***previously regulated*** if:
- (a) the chemical has been, but is no longer, within the scope of regulation of a Commonwealth law that relates to chemicals and that is prescribed by the regulations; or

- (b) the chemical is contained in a product that has been, but is no longer, within the scope of regulation of any of the following:
  - (i) the *Agricultural and Veterinary Chemicals Code Act 1994*;
  - (ii) the *Therapeutic Goods Act 1989*;
  - (iii) the *Food Standards Australia New Zealand Act 1991*;
  - (iv) another Commonwealth law that relates to chemicals in products (whether consisting of a single chemical or not) and that is prescribed by the regulations.

### **15AB Inclusion of previously regulated chemical in Inventory**

- (1) If:
    - (a) the Director makes a final decision under subsection 15AA(7) to include a new industrial chemical in the Inventory; and
    - (b) either:
      - (i) at least 28 days have passed since the Director published the notice mentioned in subsection 15AA(8) and an application to the Tribunal for review of the Director's decision has not been made; or
      - (ii) an application to the Tribunal for review of the Director's decision has been made and review of the decision has been finalised;then the Director must include the chemical in the Inventory, along with any particulars in respect of the chemical that the Director has made a final decision to include in the Inventory.
- Note: Once the chemical has been included in the Inventory, the Director can include and vary conditions and other particulars in respect of the chemical under section 13.
- (2) If the Director includes a chemical in the Inventory under subsection (1):
    - (a) the chemical is to be included in the non-confidential section of the Inventory; and
    - (b) the Director must give notice in the Chemical Gazette of:
      - (i) the inclusion of the chemical in the Inventory; and
      - (ii) any particulars included in the Inventory in respect of the chemical.

**11 After subsection 23(8)**

Insert:

*Notification statement for certain UV filters*

- (9) A notification statement about a new industrial chemical that is to be used as an ultraviolet filter in a cosmetic to be applied to the skin must contain the matters specified in:
- (a) Parts A, B, C and E of the Schedule; and
  - (b) if the chemical is a polymer—Part D of the Schedule.

(9A) If subsection (9) applies to a chemical, subsections (4) to (8) do not apply.

**12 Subsection 31A(1)**

Omit “, the full public report and the summary report”, substitute “and the public report”.

**13 Paragraph 31B(1)(a)**

Omit “, the full public report and the summary report”, substitute “and the public report”.

**14 Subsection 34(1)**

Omit “(1)”.

Note: The heading to section 34 is replaced by the heading “**Public report of assessment**”.

**15 Subsection 34(1)**

Omit “full”.

**16 Section 35**

Repeal the section.

**17 Paragraphs 36(1)(b) and (c)**

Repeal the paragraphs, substitute:

- (b) the public report about the chemical;

**18 Paragraphs 36(2)(b) and (c)**

Repeal the paragraphs, substitute:

- (b) the public report about the chemical;

**19 Subparagraph 37(2)(a)(ii)**

Omit “full public report and the summary report based on the assessment report”, substitute “public report”.

**20 Paragraph 38(5)(b)**

Omit “full”.

**21 Paragraph 38(5)(c)**

Repeal the paragraph, substitute:

- (c) publishing the public report about the chemical on the website maintained for the National Industrial Chemicals Notification and Assessment Scheme by the Department; and
- (d) publishing a notice in the Chemical Gazette stating that the public report is available as mentioned in paragraph (c).

**22 Subsection 38(7)**

Omit “full public report and the summary report”, substitute “public report”.

**23 Subsection 40(1)**

Repeal the subsection, substitute:

- (1) If a public report about an industrial chemical has been published under section 38, a person may apply in the approved form to the Director for variation of the public report. The application must be made within 28 days after publication.

Note: The heading to section 40 is altered by omitting “full”.

**24 Subsection 40(8)**

Repeal the subsection, substitute:

- (8) If a public report about a chemical is varied, the Director must make any consequential variations to the assessment report about the chemical.

**25 Subparagraph 40A(5)(a)(iii)**

Omit “full public assessment report”, substitute “public report”.

**26 Paragraph 40G(1)(b)**

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Omit “related full public report and summary report”, substitute “public report”.

**27 Paragraph 40G(1)(c)**

Repeal the paragraph, substitute:

- (c) by publishing the public report on the website maintained for the National Industrial Chemicals Notification and Assessment Scheme by the Department; and
- (d) by publishing a notice in the Chemical Gazette stating that the public report is available as mentioned in paragraph (c).

**28 Subsection 40G(4)**

Omit “related full public report or summary report”, substitute “public report”.

**29 Subsection 44(4)**

Omit “, the full public report and the summary report”, substitute “and the public report”.

**30 Subsections 60F(4) to (6)**

Repeal the subsections.

**31 Paragraph 60F(7)(c)**

Repeal the paragraph, substitute:

- (c) publishing the report on the website maintained for the National Industrial Chemicals Notification and Assessment Scheme by the Department; and
- (d) publishing a notice in the Chemical Gazette stating that the report is available as mentioned in paragraph (c).

**32 Subsection 60F(8)**

Omit “and the summary report”.

**33 Subsection 68(5)**

Omit “, the full public report and the summary report of it”, substitute “and public report”.

Note: The heading to section 68 is replaced by the heading “**Secondary notification assessment of new industrial chemicals**”.

**34 Paragraph 70(1)(b)**

Omit “summary report”, substitute “public report”.

**35 Subsection 78(1)**

Repeal the subsection.

Note: The heading to section 78 is replaced by the heading “**Material Safety Data Sheets to be available**”.

**36 Subsection 78(2)**

Omit “(2)”.

**37 At the end of subsection 102(1)**

Add:

; or (e) a final decision by the Director under subsection 15AA(7).

**38 Section 104A**

After “section” (first occurring), insert “15AA, 15AB, ”.

**39 Paragraph 110(1)(t)**

Repeal the paragraph.

**40 Clause 1 of Part A of the Schedule**

Omit “23(4), (5), (6), (7) and (8)”, substitute “23(4) to (9)”.

**41 Clause 4 of Part B of the Schedule**

Omit “appearance, being the colour and form,”, substitute “physical state and the appearance (being the colour and form)”.

**42 Clause 5 of Part B of the Schedule**

Repeal the clause, substitute:

5. The estimated quantity, in tonnes per year, or, in a range of tonnes per year of 1 to 10, 10 to 100, 100 to 1,000 and over 1,000, of the chemical proposed to be:
  - (a) imported into Australia by the notifier in each of the next 5 years; and
  - (b) manufactured in Australia by the notifier in each of those years.

**43 Subparagraph 6(a)(i) of Part B of the Schedule**

Omit “number, and categories,”, substitute “categories”.

**44 Clause 8 of Part B of the Schedule**

Repeal the clause, substitute:

8. A description of the ways in which the public might be exposed to the chemical based on its proposed uses and its potential release in the environment.

**45 Paragraph 9(k) of Part B of the Schedule**

Omit all the words after “the chemical”.

**46 Subparagraph 9(m)(i) of Part B of the Schedule**

Before “the upper”, insert “for gases and vapours—”.

**47 After subparagraph 9(m)(i) of Part B of the Schedule**

Insert:

- (ia) for solids—the ability to propagate combustion; and

**48 Paragraph 9(p) of Part B of the Schedule**

Repeal the paragraph, substitute:

- (p) the chemical’s explosive properties, including the chemical’s potential (if any) to detonate as the result of heat, shock or friction;

**49 Before subparagraph 9(q)(i) of Part B of the Schedule**

Insert:

- (ia) the chemical’s oxidising properties; and

**50 Paragraph (g) of Part C of the Schedule**

Omit “10 to 14 days”, substitute “28 days”.

**51 Paragraph (j) of Part C of the Schedule**

Repeal the paragraph, substitute:

- (j) any production by the chemical of genotoxic damage in a suitable *in vivo* test;

**52 Paragraph (t) of Part C of the Schedule**

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Omit “data; and”, substitute “data.”.

### **53 Paragraph (u) of Part C of the Schedule**

Repeal the paragraph.

### **54 Clause 4 of Part D of the Schedule**

Omit “1,000”, substitute “500 daltons and below 1,000 daltons”.

### **55 At the end of the Schedule**

Add:

## **Part E**

The following data about the effects of the chemical:

- (a) the chemical’s photostability;
- (b) the chemical’s phototoxicity;
- (c) the chemical’s photosensitisation;
- (d) the chemical’s bioavailability via the oral and dermal routes;
- (e) the chemical’s toxic effects on administration for a period of 3 to 6 months, by the oral and dermal routes;
- (f) the chemical’s photomutagenicity;
- (g) the chemical’s toxic effects on reproduction, including toxicity to male fertility;
- (h) the carcinogenic potential of the chemical, including photocarcinogenicity;
- (i) the potential of the chemical to interact with another chemical used as an ultraviolet filter in a cosmetic to be applied to the skin;

being data obtained:

- (j) by specified methods; and
- (k) from specified raw data.

### **56 Application provision—previously regulated chemicals**

The amendments made by item 10 of this Schedule apply to any chemical that was previously regulated (within the meaning of subsection 15AA(9) of the *Industrial Chemicals (Notification and Assessment) Act 1989* as inserted by that item), whether the chemical became previously regulated before or after the commencement of that item.



## 57 Application provision—amendments about UV filters

The amendments made by items 11, 40 and 55 of this Schedule apply to applications for assessment certificates made under section 23 of the *Industrial Chemicals (Notification and Assessment) Act 1989* (as amended by this Schedule) on or after the day on which those items commence.

## 58 Application provision—amendments about summary reports

The amendments made by items 1, 3, 4, 12 to 35 and 39 of this Schedule apply to assessment reports (within the meaning of subsection 5(1) of the *Industrial Chemicals (Notification and Assessment) Act 1989*) published on or after the day this Schedule commences.

[Minister's second reading speech made in—  
House of Representatives on 6 July 2011  
Senate on 22 August 2011]

(132/11)

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