

EXPOSURE DRAFT



EXPOSURE DRAFT

Industrial Chemicals (Consequential Amendments and Transitional Provisions) Rules 2018

I, Bridget McKenzie, Minister for Rural Health, make the following rules.

Dated 2018

Bridget McKenzie [**DRAFT ONLY—NOT FOR SIGNATURE**]
Minister for Rural Health

EXPOSURE DRAFT

EXPOSURE DRAFT

Contents

Part 1—Preliminary	1
1 Name.....	1
2 Commencement	1
3 Authority.....	1
4 Definitions	1
Part 2—Assessment certificates under new law	3
Division 1—Pending applications for assessment certificates	3
5 Pending applications for assessment certificates.....	3
6 Pending applications for variation of requirements of section 23 of old law	3
7 Period within which decision must be made on application.....	3
8 Matters Executive Director must have regard to in considering application.....	4
9 Requests for further information under old law	4
10 Draft assessment statement not to be provided	4
11 Executive Director must prepare draft assessment report and public report	4
12 Issue of assessment certificate and assessment report.....	5
13 Publication of public report.....	5
14 Content of assessment certificate	5
15 General requirements for applications	6
Division 2—Pending applications for variation of assessment report	7
16 Pending applications for variation of assessment report	7
17 Reconsideration and review of decision.....	7
Division 3—Pending applications for extension of assessment certificate	8
18 Pending applications under section 40A of old law—no significant variations	8
19 Pending applications under section 40A of old law—significant variations	8
Division 4—Transitioned assessment certificates	9
20 Notification obligations continue as specific requirements to provide information	9
21 Varying or cancelling an assessment certificate.....	9
Part 3—Commercial evaluation permits under new law	10
Division 1—Pending applications for commercial evaluation permits	10
22 Pending applications for commercial evaluation permits.....	10
23 Consideration of application	10
24 Requests for further information under old law	10
25 Content of authorisation.....	10
26 Applying for protection of end use	10
Division 2—Pending applications for renewal of commercial evaluation permits	11
27 Pending applications for renewal of commercial evaluation permits.....	11
28 Pending applications for renewal to be treated as variation applications under the new law	11
29 Requests for further information under old law	11
30 Consideration of application	11
Division 3—Transitioned commercial evaluation permits	12
31 Transitioned permits subject to 4-year limit.....	12

EXPOSURE DRAFT

Part 4—Low volume permits under new law	13
Division 1—Pending applications for low volume permits	13
32 Pending applications for low volume permits	13
33 Period within which decision must be made on application.....	13
34 Requests for further information under old law	13
35 Issue of assessment certificate	13
36 Content of assessment certificate	14
37 Applying for protection of end use	14
Division 2—Pending applications for renewal of low volume permits	15
38 Pending applications for renewal of low volume permits	15
39 Pending applications for renewal to be treated as variation applications under the new law	15
Division 3—Transitioned low volume permits	17
40 New law applies to transitioned low volume permits subject to modifications.....	17
41 Varying the assessment certificate	17
42 Variations on Executive Director’s initiative.....	17
43 Cancellation on Executive Director’s initiative	18
Part 5—Controlled use permits under new law	19
Division 1—Pending applications for controlled use permits	19
44 Pending applications for controlled use permits	19
45 Period within which decision must be made on application.....	19
46 Requests for further information under old law	19
47 Issue of assessment certificate	19
48 Content of assessment certificate	20
49 Applying for protection of end use	20
Division 2—Pending applications for renewal of controlled use permits	20
50 Pending applications for renewal of controlled use permits.....	20
51 Pending applications for renewal to be treated as variation applications under the new law	20
Division 3—Transitioned controlled use permits	23
52 New law applies to transitioned controlled use permits subject to modifications	23
53 Varying the assessment certificate	23
54 Variations on Executive Director’s initiative.....	23
55 Cancellation on Executive Director’s initiative	24
Part 6—Early introduction permits	25
56 Permits allowing introduction before assessment in the public interest	25
57 Permits allowing introduction before assessment of non-hazardous chemicals	25
58 Pending applications for permits allowing introduction before assessment of non-hazardous chemicals	25
Part 7—Secondary notifications under old law	26
59 Incomplete assessments under old law following secondary notification	26
60 Assessment certificate variations following secondary notification assessment under old law	26
61 Inventory listing variations following secondary notification assessment under old law	27
Part 8—Application fees payable under old law	28
62 Application fees payable under old law	28

EXPOSURE DRAFT

Part 9—Inventory	29
63 Application for confidential listing	29
64 Confidence holders and holders of old law assessment certificates may also apply for confidential listing	29
65 Particulars of listing under old law	30
66 Removing chemicals that have been wrongly listed on the Inventory	30
67 Details of trade name products.....	31
68 Application for confidential listing in relation to trade name product.....	31
Part 10—Information, reporting and confidentiality	33
69 Information and documents obtained under section 100G of old law	33
Part 11—Movements authorised under section 106 of old law	34
70 Introduction of industrial chemicals authorised under section 106 of old law	34
71 Export of industrial chemicals authorised under section 106 of the old law	34
Part 12—Consideration period	35
72 Calculating the consideration period for an application	35
Schedule 1—Particulars of old Inventory listings	39
1 Conditions of use that are taken to be the defined scope of assessment.....	39
2 Conditions of use that are taken to be conditions relating to introduction or use.....	41

EXPOSURE DRAFT

Preliminary **Part 1**

Section 1

Part 1—Preliminary

1 Name

This instrument is the *Industrial Chemicals (Consequential Amendments and Transitional Provisions) Rules 2018*.

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	Immediately after the commencement of Schedule 1 to the <i>Industrial Chemicals (Consequential Amendments and Transitional Provisions) Act 2017</i> .	

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 (Consequential Amendments and Transitional Provisions) Act 2017*.

4 Definitions

In this instrument:

assessment report means a written report issued by the Executive Director in relation to an assessment of an industrial chemical that includes the following information (including such a report as varied under section 11):

- the chemical name for the industrial chemical;
- the end use for the industrial chemical;
- a summary of any human health and environment matters relating to the introduction and use of the industrial chemical that were considered in the course of conducting the assessment;

EXPOSURE DRAFT

Part 1 Preliminary

Section 4

- (d) the means for managing any risks identified in the course of conducting the assessment, including any recommendations relating to the introduction or use of the industrial chemical;
- (e) any conditions relating to the introduction or use of the industrial chemical;
- (f) any specific requirements to provide information to the Executive Director in relation to the introduction;
- (g) any other information relating to the safe introduction and use of the industrial chemical that the Executive Director considers relevant.

chemical name, for a chemical, has the same meaning as in the old law.

commencement day means the day this instrument commences.

old regulations means the *Industrial Chemicals (Notification and Assessment) Regulations 1990*, as in force immediately before the commencement day.

public report means a written report issued by the Executive Director in relation to an assessment of an industrial chemical that includes the contents of the assessment report, other than any protected information (including such a report as varied under section 11).

Note: Information that was treated as exempt information under the old law is taken to be protected information under the new law: see item 38 of Schedule 2 to the transitional Act.

transitional Act means the *Industrial Chemicals (Consequential Amendments and Transitional Provisions) Act 2017*.

EXPOSURE DRAFT

Assessment certificates under new law **Part 2**
Pending applications for assessment certificates **Division 1**

Section 5

Part 2—Assessment certificates under new law

Division 1—Pending applications for assessment certificates

5 Pending applications for assessment certificates

For the purposes of subitem 13(2) of Schedule 2 to the transitional Act, the new law applies in relation to:

- (a) an application for an assessment certificate for an industrial chemical that is made under the old law; and
 - (b) an assessment certificate for an industrial chemical that is issued under the new law following such an application;
- subject to the modifications set out in this Division.

6 Pending applications for variation of requirements of section 23 of old law

If:

- (a) an application is made for waiver or substitution of a requirement to include a matter in a notification statement about an industrial chemical under section 24 of the old law (the *variation application*); and
 - (b) the variation application is made at the same time as an application for an assessment certificate for the industrial chemical under section 23 of the old law (the *certificate application*); and
 - (c) both applications are pending immediately before the commencement day;
- item 13 of Schedule 2 to the transitional Act is taken to apply to the certificate application.

7 Period within which decision must be made on application

- (1) Paragraph 32(2)(a) of the new law applies in relation to the application as if the reference in that paragraph to 70 working days were instead a reference to 80 working days.

Note: For circumstances affecting the calculation of the consideration period, see section 72 of this instrument, and section 169 of the new law.

(2) If:

- (a) the applicant for the assessment certificate also applied under section 30A of the old law for a permit to introduce the industrial chemical before the assessment report is complete; and
- (b) the Director requested further information to be given by the applicant under subsection 30A(6) of the old law;

then, the period beginning on the day of that request and ending on the day the further information is received is excluded in determining the period of 80 days referred to in subsection (1).

EXPOSURE DRAFT

Part 2 Assessment certificates under new law

Division 1 Pending applications for assessment certificates

Section 8

8 Matters Executive Director must have regard to in considering application

Paragraph 32(3)(f) of the new law applies in relation to the application as if the reference to submissions made in accordance with section 36 of the new law were instead a reference to submissions made in accordance with section 11 of this instrument.

9 Requests for further information under old law

- (1) This section applies in relation to a notice given before the commencement day under section 27 of the old law requiring the applicant to give information to the Director.
- (2) For the purposes of the new law, on and after the commencement day, the notice has effect as if it were a request for further information given by the Executive Director under section 33 of the new law.

10 Draft assessment statement not to be provided

Section 36 of the new law does not apply in relation to the application.

11 Executive Director must prepare draft assessment report and public report

- (1) The Executive Director must, by written notice, provide each applicant with:
 - (a) a draft assessment report for the industrial chemical; and
 - (b) a draft public report for the industrial chemical.
- (2) An applicant may apply to the Executive Director to vary the draft assessment report.
- (3) An application under subsection (2) must be made within 10 working days after the day the notice is given.
- (4) After considering the application, the Executive Director must:
 - (a) decide to:
 - (i) vary the draft assessment report; or
 - (ii) not vary the draft assessment report; and
 - (b) do so within 10 working days (the *consideration period*) after the day the application is made.
- (5) The Executive Director must vary the draft assessment report if the Executive Director is satisfied that the draft assessment report as varied would be correct.
- (6) If the decision is to vary the draft assessment report, the Executive Director must also:
 - (a) make any corresponding changes to the public report; and
 - (b) give each applicant the assessment report as varied.
- (7) Section 167 of the new law applies in relation to the application as if the application were an application made under the new law.

EXPOSURE DRAFT

Assessment certificates under new law **Part 2**
Pending applications for assessment certificates **Division 1**

Section 12

Note: Section 167 of the new law deals with general requirements relating to applications.

12 Issue of assessment certificate and assessment report

Section 37 of the new law applies in relation to the assessment certificate as if:

- (a) paragraph (1)(b) does not apply; and
- (b) subsections (2) and (3) do not apply; and
- (c) the requirement in subsection (5) to give the assessment statement were instead a requirement to give the assessment report and public report.

Note: Subsection 37(7) of the new law also does not apply in relation to the assessment certificate: see item 16 of Schedule 2 to the transitional Act.

13 Publication of public report

- (1) The Executive Director must publish the public report for the industrial chemical on the AICIS website:
 - (a) if the applicant gives the Executive Director consent, in writing, to the publication of the public report—as soon as practicable after the consent is given; or
 - (b) otherwise—no earlier than 20 working days after the day the assessment report is given to the applicant.
- (2) Despite subsection (1), if a person withdraws the application before the public report is published, the Executive Director must not publish the public report.
- (3) Despite subsection (1), if a person has made an application for information in the assessment report to be treated as exempt information or confidential business information, the Executive Director must not publish the report unless:
 - (a) the application has been decided; and
 - (b) the reconsideration and review rights under section 102 of the old law, or section 166 of the new law (as the case requires), in relation to the decision have been exhausted or have expired.

Note: The operation of section 102 of the old law is preserved in relation to decisions made before the commencement day: see item 5 of Schedule 2 to the transitional Act.

- (4) Despite subsection (1), if a person has made an application for variation of the assessment report, the Executive Director must not publish the report unless:
 - (a) the application has been decided; and
 - (b) the reconsideration and review rights under section 102 of the old law, or section 166 of the new law (as the case requires), in relation to the decision have been exhausted or have expired.

Note: The operation of section 102 of the old law is preserved in relation to decisions made before the commencement day: see item 5 of Schedule 2 to the transitional Act.

14 Content of assessment certificate

Subsection 38(1) of the new law applies in relation to the assessment certificate subject to the following modifications:

EXPOSURE DRAFT

Part 2 Assessment certificates under new law

Division 1 Pending applications for assessment certificates

Section 15

- (a) paragraph (1)(a) applies as if the reference to the proper name for the industrial chemical were instead a reference to the name for the industrial chemical as published in the public report;
- (b) paragraph (1)(b) does not apply.

Note: Subsection 38(2) of the new law also does not apply in relation to the assessment certificate: see item 15 of Schedule 2 to the transitional Act.

15 General requirements for applications

Section 167 of the new law applies in relation to the application as if:

- (a) the application were an application made under the new law; and
- (b) the reference in subsection 167(5) to a decision being made on the application were instead a reference to the public report being published under section 13 of this instrument.

EXPOSURE DRAFT

Assessment certificates under new law **Part 2**
Pending applications for variation of assessment report **Division 2**

Section 16

Division 2—Pending applications for variation of assessment report

16 Pending applications for variation of assessment report

- (1) This section applies in relation to an application, if:
 - (a) the application is under subsection 37(1) of the old law for variation of the assessment report about an industrial chemical; and
 - (b) the application is pending immediately before the commencement day.
- (2) The application has effect, on and after the commencement day, as if it were an application made under section 11 of this instrument.

17 Reconsideration and review of decision

Section 166 of the new law applies as if the table in subsection (1) of that section included the following item at the end of the table:

21	A decision to not vary a draft assessment report	Subparagraph 11(4)(a)(ii) of the <i>Industrial Chemicals (Consequential Amendments and Transitional Provisions) Rules 2018</i>
----	--	--

EXPOSURE DRAFT

Part 2 Assessment certificates under new law

Division 3 Pending applications for extension of assessment certificate

Section 18

Division 3—Pending applications for extension of assessment certificate

18 Pending applications under section 40A of old law—no significant variations

- (1) This section applies in relation to an application, if:
 - (a) the application is for extension of an assessment certificate for an industrial chemical to cover another importer or manufacturer under section 40A of the old law; and
 - (b) subparagraph 40A(5)(a)(i) of the old law does not apply in relation to the application; and
 - (c) the application is pending immediately before the commencement day.
- (2) For the purposes of the new law, the application has effect, on and after the commencement day, as if it were an application made under subsection 40(1) of the new law.

19 Pending applications under section 40A of old law—significant variations

- (1) This section applies in relation to an application, if:
 - (a) the application is for extension of an assessment certificate for an industrial chemical to cover another importer or manufacturer under section 40A of the old law; and
 - (b) subparagraph 40A(5)(a)(i) of the old law does apply in relation to the application; and
 - (c) the application is pending immediately before the commencement day.
- (2) For the purposes of the new law:
 - (a) the application has effect, on and after the commencement day, as if it were an application made under subsection 43(1) of the new law to vary a term of the assessment certificate; and
 - (b) Subdivision C of Division 3 of Part 3 of the new law applies as if who the assessment certificate covers were a term of the assessment certificate.

EXPOSURE DRAFT

Assessment certificates under new law **Part 2**
Transitioned assessment certificates **Division 4**

Section 20

Division 4—Transitioned assessment certificates

20 Notification obligations continue as specific requirements to provide information

Paragraph 11(2)(e) of Schedule 2 to the transitional Act applies as if the words “(other than paragraph (2)(e))” were omitted.

21 Varying or cancelling an assessment certificate

- (1) This section applies in relation to an assessment certificate for an industrial chemical that:
 - (a) is taken to have been issued under the new law in accordance with item 11 of Schedule 2 to the transitional Act; or
 - (b) is issued under the new law in accordance with item 13 of that Schedule (a *transitioned application certificate*).
- (2) For the purposes of subitems 11(2) and 13(2) of Schedule 2 to the transitional Act, the new law applies in relation to the following assessment statements for the assessment certificate as if the reference in paragraph (a) of the definition of *assessment statement* in section 9 of the new law to the proper name for the industrial chemical were instead a reference to the name for the industrial chemical as published in the public report for the industrial chemical:
 - (a) a draft assessment statement that is given to an applicant under subsection 48(1) of the new law;
 - (b) an assessment statement that is given to an applicant under subsection 49(4) of the new law;
 - (c) if the assessment certificate is a transitioned application certificate—an assessment statement that is published on the AICIS website under subsection 49(6) of the new law;
 - (d) an assessment statement that is given to the holder of the assessment certificate under subsection 50(6) of the new law;
 - (e) if the assessment certificate is a transitioned application certificate—an assessment statement that is published on the AICIS website under subsection 50(8) of the new law;
 - (f) an assessment statement that is given to the holder of the assessment certificate under subsection 52(6) of the new law;
 - (g) if the assessment certificate is a transitioned application certificate—an assessment statement that is published on the AICIS website under subsection 52(7) of the new law.

Note 1: Subsections 49(6), 50(8) and 52(7) of the new law do not apply in relation to an assessment certificate that is taken to be issued under the new law in accordance with item 11 of Schedule 2 to the transitional Act: see item 12 of that Schedule.

Note 2: For assessment certificates that are taken to be issued under the new law in accordance with item 11 of Schedule 2 to the transitional Act, or are issued under the new law in accordance with item 13 of that Schedule, an assessment report is given with the assessment certificate and a public report is published instead of an assessment statement: see sections 11, 12 and 13 of this instrument.

EXPOSURE DRAFT

Part 3 Commercial evaluation permits under new law

Division 1 Pending applications for commercial evaluation permits

Section 22

Part 3—Commercial evaluation permits under new law

Division 1—Pending applications for commercial evaluation permits

22 Pending applications for commercial evaluation permits

For the purposes of subitem 18(2) of Schedule 2 to the transitional Act, the new law applies in relation to:

- (a) an application for a commercial evaluation permit relating to an industrial chemical that is made under the old law; and
 - (b) a commercial evaluation authorisation for an industrial chemical that is issued under the new law following such an application;
- subject to the modifications set out in this Part.

23 Consideration of application

Section 54 of the new law applies in relation to the application as if:

- (a) the reference in subsection (2) to the day the application is made were instead a reference to the commencement day; and
- (b) the reference in paragraph (3)(d) to paragraphs 53(1)(a) and (b) were instead a reference only to paragraph 53(1)(a).

Note: For circumstances affecting the calculation of the consideration period, see section 72 of this instrument, and section 169 of the new law.

24 Requests for further information under old law

- (1) This section applies in relation to a notice given before the commencement day under section 21F of the old law requiring the applicant to give information to the Director.
- (2) For the purposes of the new law, on and after the commencement day, the notice has effect as if it were a request for further information given by the Executive Director under section 55 of the new law.

25 Content of authorisation

Section 59 of the new law applies in relation to the commercial evaluation authorisation as if the references in paragraphs (1)(a) and (2)(a) to the proper name for the industrial chemical were instead references to the trade name of the industrial chemical or the chemical name for the industrial chemical.

26 Applying for protection of end use

Subsection 105(4) of the new law applies as if paragraph (4)(a) does not apply where the related application is an application that is taken to have been made under the new law in accordance with item 18 of Schedule 2 to the transitional Act.

EXPOSURE DRAFT

Commercial evaluation permits under new law **Part 3**
Pending applications for renewal of commercial evaluation permits **Division 2**

Section 27

Division 2—Pending applications for renewal of commercial evaluation permits

27 Pending applications for renewal of commercial evaluation permits

Subitem 18(1) of Schedule 2 to the transitional Act applies as if subparagraph (1)(a)(ii) were omitted.

28 Pending applications for renewal to be treated as variation applications under the new law

- (1) This section applies in relation to an application, if:
 - (a) the application is for renewal of a commercial evaluation permit relating to an industrial chemical under subsection 21B(2) of the old law; and
 - (b) the application is pending immediately before the commencement day.
- (2) For the purposes of the new law:
 - (a) the application has effect, on and after the commencement day, as if it were an application to vary a term of a commercial evaluation authorisation under section 62 of the new law; and
 - (b) if a decision is not made on the application before the end of the remaining period for which the commercial evaluation permit would have been in force under section 21K of the old law—the period for which the authorisation is in force under the new law is taken to continue until a decision is made on the application.

Note: Commercial evaluation permits that were in force under the old law immediately before the commencement day are taken to be commercial evaluation authorisations under the new law: see item 17 of Schedule 2 to the transitional Act.

29 Requests for further information under old law

- (1) This section applies in relation to a notice given before the commencement day under section 21F of the old law requiring the applicant to give information to the Director.
- (2) For the purposes of the new law, on and after the commencement day:
 - (a) the notice continues to have effect as if it were a request for further information given by the Executive Director under the new law; and
 - (b) paragraph 63(3)(b) of the new law applies as if that paragraph also included a reference to further information provided in accordance with paragraph (a) of this subsection.

30 Consideration of application

Section 63 of the new law applies in relation to the application as if the reference in subsection (2) to the day the application is made were instead a reference to the commencement day.

Note: For circumstances affecting the calculation of the consideration period, see section 72 of this instrument, and section 169 of the new law.

EXPOSURE DRAFT

Part 3 Commercial evaluation permits under new law

Division 3 Transitioned commercial evaluation permits

Section 31

Division 3—Transitioned commercial evaluation permits

31 Transitioned permits subject to 4-year limit

- (1) This section applies in relation to a commercial evaluation authorisation that is taken to have been issued under the new law in accordance with item 17 of Schedule 2 to the transitional Act.
- (2) For the purposes of subitem 17(2) of Schedule 2 to the transitional Act, paragraph 59(1)(b) of the new law applies in relation to the authorisation as if the reference in that paragraph to 4 years were expressly confined to a reference to 4 years beginning on the day the permit was issued under the old law.

EXPOSURE DRAFT

Low volume permits under new law **Part 4**
Pending applications for low volume permits **Division 1**

Section 32

Part 4—Low volume permits under new law

Division 1—Pending applications for low volume permits

32 Pending applications for low volume permits

For the purposes of subitem 21(2) of Schedule 2 to the transitional Act, the new law applies in relation to:

- (a) an application for a low volume permit in respect of an industrial chemical that is made under the old law; and
- (b) an assessment certificate for an industrial chemical that is issued under the new law following such an application;

subject to the modifications set out in this Division.

33 Period within which decision must be made on application

Paragraph 32(2)(a) of the new law applies in relation to the application as if the reference in that paragraph to 70 working days were instead a reference to 20 working days.

Note: For circumstances affecting the calculation of the consideration period, see section 72 of this instrument, and section 169 of the new law.

34 Requests for further information under old law

- (1) This section applies in relation to a notice given before the commencement day under section 21SA of the old law requiring the applicant to give further information to the Director.
- (2) For the purposes of the new law, on and after the commencement day, the notice has effect as if it were a request for further information given by the Executive Director under section 33 of the new law.

35 Issue of assessment certificate

- (1) Section 37 of the new law applies in relation to the assessment certificate as if:
 - (a) subsections 37(2) and (3) do not apply and were instead a requirement for the Executive Director to be satisfied in accordance with subsection (2) of this section; and
 - (b) subsection 37(5) were limited to a requirement to give written notice of the decision; and
 - (c) section 37 included a requirement for the Executive Director to publish written notice of the issue of the assessment certificate in accordance with subsection (3) of this section.

Note: Subsection 37(7) of the new law also does not apply in relation to the assessment certificate: see item 24 of Schedule 2 to the transitional Act.

EXPOSURE DRAFT

Part 4 Low volume permits under new law

Division 1 Pending applications for low volume permits

Section 36

Matters of which the Executive Director must be satisfied

- (2) For the purposes of paragraph (1)(a), the Executive Director must be satisfied that:
- (a) the end use for the industrial chemical does not pose an unreasonable risk to human health or to the environment, having regard to:
 - (i) Schedule 1AA to the old regulations, as if those regulations were still in force; and
 - (ii) any other matter the Executive Director considers relevant; and
 - (b) the total volume of the industrial chemical that will be introduced during any 12-month period will not exceed:
 - (i) if the industrial chemical meets the criteria set out in clauses 2 and 3 of Schedule 1AA to the old regulations, as if those regulations were still in force—1,000 kilograms; or
 - (ii) otherwise—100 kilograms.

Notice of the issue of the assessment certificate

- (3) For the purposes of paragraph (1)(c), the Executive Director must publish on the AICIS website a notice setting out:
- (a) the trade name of the industrial chemical or the chemical name for the industrial chemical; and
 - (b) the end use for the industrial chemical; and
 - (c) the period for which the assessment certificate is to be in force.

36 Content of assessment certificate

Subsection 38(1) of the new law applies in relation to the assessment certificate subject to the following modifications:

- (a) paragraph (1)(a) applies as if the reference to the proper name for the industrial chemical were instead a reference to the trade name of the industrial chemical or the chemical name for the industrial chemical;
- (b) paragraph (1)(b) does not apply.

Note: Subsection 38(2) of the new law also does not apply in relation to the assessment certificate: see item 23 of Schedule 2 to the transitional Act.

37 Applying for protection of end use

Subsection 105(4) of the new law applies as if paragraph (4)(a) does not apply where the related application is an application that is taken to have been made under the new law in accordance with item 21 of Schedule 2 to the transitional Act.

EXPOSURE DRAFT

Low volume permits under new law **Part 4**
Pending applications for renewal of low volume permits **Division 2**

Section 38

Division 2—Pending applications for renewal of low volume permits

38 Pending applications for renewal of low volume permits

Subitem 21(1) of Schedule 2 to the transitional Act applies as if subparagraph (1)(a)(ii) were omitted.

39 Pending applications for renewal to be treated as variation applications under the new law

- (1) This section applies in relation to an application if:
 - (a) the application is for renewal of a low volume permit relating to an industrial chemical under subsection 21R(1A) of the old law; and
 - (b) the application is pending immediately before the commencement day.
- (2) For the purposes of the new law:
 - (a) the period for which the assessment certificate is in force under paragraph 19(2)(f) of Schedule 2 to the transitional Act is taken to be a term of the assessment certificate; and
 - (b) the application has effect, on and after the commencement day, as if it were an application to vary that term of an assessment certificate under section 43 of the new law; and
 - (c) section 44 of the new law applies in relation to the application as if:
 - (i) that section included a requirement that before deciding to vary the term of the assessment certificate the Executive Director must be satisfied in accordance with subsection (3) of this section; and
 - (ii) the reference in paragraph 44(2)(a) to 70 working days were instead a reference to 20 working days; and
 - (iii) paragraphs 44(3)(c) and (d) did not apply; and
 - (d) sections 46 and 47 of the new law do not apply in relation to the application; and
 - (e) section 49 of the new law applies as if that section included a requirement that the term of the assessment certificate as varied must not be more than 3 years from the day written notice of the decision is given; and
 - (f) subsection 49(4) of the new law applies in relation to the application as if that subsection were limited to a requirement to give written notice of the decision; and
 - (g) if a decision is not made on the application before the end of the remaining period for which the low volume permit would have been in force under section 21V of the old law—the period for which the assessment certificate is in force under the new law is taken to continue until a decision is made on the application.

Note 1: For circumstances affecting the calculation of the consideration period, see section 169 of the new law.

Note 2: Low volume permits that were in force under the old law immediately before the commencement day are taken to be time-limited assessment certificates under the new law: see item 19 of Schedule 2 to the transitional Act.

EXPOSURE DRAFT

Part 4 Low volume permits under new law

Division 2 Pending applications for renewal of low volume permits

Section 39

- (3) For the purposes of subparagraph (2)(c)(i), the Executive Director must be satisfied of the following:
- (a) that the function or use of the industrial chemical:
 - (i) has not changed significantly since the low volume permit was granted; and
 - (ii) is not likely to change significantly if the low volume permit is renewed;
 - (b) that the volume of the industrial chemical being introduced by the applicant:
 - (i) has not significantly increased since the low volume permit was granted; and
 - (ii) is not likely to significantly increase if the low volume permit is renewed;
 - (c) if the low volume permit is for an industrial chemical that is manufactured in Australia by the applicant—that the method of manufacture of the industrial chemical employed by the applicant:
 - (i) has not changed since the low volume permit was granted in a way that may result in an increased risk to occupational health and safety, public health or the environment; and
 - (ii) is not likely to change if the low volume permit is renewed;
 - (d) if the low volume permit is for an industrial chemical that was not manufactured, or proposed to be manufactured in Australia at the time the permit was granted, by the applicant—that the industrial chemical has not been manufactured by the applicant in Australia since the low volume permit was granted;
 - (e) that no additional information has become available to the applicant as to any adverse effects of the industrial chemical on occupational health and safety, public health or the environment.

EXPOSURE DRAFT

Low volume permits under new law **Part 4**
Transitioned low volume permits **Division 3**

Section 40

Division 3—Transitioned low volume permits

40 New law applies to transitioned low volume permits subject to modifications

For the purposes of subitems 19(2) and 21(2) of Schedule 2 to the transitional Act, the new law applies in relation to an assessment certificate for an industrial chemical that:

- (a) is taken to have been issued under the new law in accordance with item 19 of that Schedule; or
- (b) is issued under the new law in accordance with item 21 of that Schedule; subject to the modifications set out in this Division.

41 Varying the assessment certificate

- (1) This section applies in relation to an application under section 43 of the new law to vary a term of the assessment certificate.
- (2) Paragraph 44(2)(a) of the new law applies in relation to the application as if the reference in that paragraph to 70 working days were instead a reference to 20 working days.

Note: For circumstances affecting the calculation of the consideration period, see section 169 of the new law.

- (3) Paragraphs 44(3)(c) and (d), and sections 46 and 47, of the new law do not apply in relation to the application.
- (4) Section 49 of the new law applies in relation to the application as if:
 - (a) subsection 49(4) were limited to a requirement to give written notice of the decision; and
 - (b) if paragraph 40(b) of this instrument applies to the assessment certificate—subsection 49(6) does not apply.

Note: Subsection 49(6) of the new law also does not apply in relation to an assessment certificate that is taken to be issued under the new law in accordance with item 19 of Schedule 2 to the transitional Act: see item 20 of that Schedule.

42 Variations on Executive Director's initiative

Section 50 of the new law applies in relation to a variation by the Executive Director of a term of the assessment certificate as if:

- (a) paragraphs 50(1)(a), (b) and (c) do not apply; and
- (b) subsection 50(6) were limited to a requirement to give written notice of the decision; and
- (c) if paragraph 40(b) of this instrument applies to the assessment certificate—subsection 50(8) does not apply.

Note: Subsection 50(8) of the new law also does not apply in relation to an assessment certificate that is taken to be issued under the new law in accordance with item 19 of Schedule 2 to the transitional Act: see item 20 of that Schedule.

EXPOSURE DRAFT

Part 4 Low volume permits under new law
Division 3 Transitioned low volume permits

Section 43

43 Cancellation on Executive Director's initiative

Section 52 of the new law applies in relation to the cancellation of the assessment certificate as if:

- (a) subsection 52(1) were instead a power for the Executive Director to cancel the assessment certificate if the Executive Director is not satisfied that the risks to human health or the environment from the introduction and use of the industrial chemical can be managed; and
- (b) subsection 52(6) were limited to a requirement to give written notice of the decision; and
- (c) if paragraph 40(b) of this instrument applies to the assessment certificate—subsection 52(7) does not apply.

Note: Subsection 52(7) of the new law also does not apply in relation to an assessment certificate that is taken to be issued under the new law in accordance with item 19 of Schedule 2 to the transitional Act: see item 20 of that Schedule.

EXPOSURE DRAFT

Controlled use permits under new law **Part 5**
Pending applications for controlled use permits **Division 1**

Section 44

Part 5—Controlled use permits under new law

Division 1—Pending applications for controlled use permits

44 Pending applications for controlled use permits

For the purposes of subitem 28(2) of Schedule 2 to the transitional Act, the new law applies in relation to:

- (a) an application for a controlled use permit in respect of an industrial chemical that is made under the old law; and
- (b) an assessment certificate for an industrial chemical that is issued under the new law following such an application;

subject to the modifications set out in this Division.

45 Period within which decision must be made on application

Paragraph 32(2)(a) of the new law applies in relation to the application as if the reference in that paragraph to 70 working days were instead a reference to 20 working days.

Note: For circumstances affecting the calculation of the consideration period, see section 72 of this instrument, and section 169 of the new law.

46 Requests for further information under old law

- (1) This section applies in relation to a notice given before the commencement day under section 22D of the old law requiring the applicant to give further information to the Director.
- (2) For the purposes of the new law, on and after the commencement day, the notice has effect as if it were a request for further information given by the Executive Director under section 33 of the new law.

47 Issue of assessment certificate

- (1) Section 37 of the new law applies in relation to the assessment certificate as if:
 - (a) subsections 37(2) and (3) do not apply and were instead a requirement for the Executive Director to be satisfied in accordance with subsection (2) of this section; and
 - (b) subsection 37(5) were limited to a requirement to give written notice of the decision; and
 - (c) section 37 included a requirement for the Executive Director to publish written notice of the issue of the assessment certificate in accordance with subsection (3) of this section.

Note: Subsection 37(7) of the new law also does not apply in relation to the assessment certificate: see item 31 of Schedule 2 to the transitional Act.

EXPOSURE DRAFT

Part 5 Controlled use permits under new law

Division 2 Pending applications for renewal of controlled use permits

Section 48

Matters of which the Executive Director must be satisfied

- (2) For the purposes of paragraph (1)(a), the Executive Director must be satisfied that the end use for the industrial chemical does not pose an unreasonable risk to human health or to the environment, having regard to:
- (a) Schedule 1AB to the old regulations, as if those regulations were still in force; and
 - (b) any other matter the Executive Director considers relevant.

Notice of the issue of the assessment certificate

- (3) For the purposes of paragraph (1)(c), the Executive Director must publish on the AICIS website a notice setting out:
- (a) the trade name of the industrial chemical or the chemical name for the industrial chemical; and
 - (b) the end use for the industrial chemical; and
 - (c) the period for which the assessment certificate is to be in force.

48 Content of assessment certificate

Subsection 38(1) of the new law applies in relation to the assessment certificate subject to the following modifications:

- (a) paragraph (1)(a) applies as if the reference to the proper name for the industrial chemical were instead a reference to the trade name of the industrial chemical or the chemical name for the industrial chemical;
- (b) paragraph (1)(b) does not apply.

Note: Subsection 38(2) of the new law also does not apply in relation to the assessment certificate: see item 30 of Schedule 2 to the transitional Act.

49 Applying for protection of end use

Subsection 105(4) of the new law applies in relation the application as if paragraph (4)(a) does not apply to an application for an end use of the industrial chemical to be treated as confidential business information.

Division 2—Pending applications for renewal of controlled use permits

50 Pending applications for renewal of controlled use permits

Subitem 28(1) of Schedule 2 to the transitional Act applies as if subparagraph (1)(a)(ii) were omitted.

51 Pending applications for renewal to be treated as variation applications under the new law

- (1) This section applies in relation to an application if:
- (a) the application is for renewal of a controlled use permit in respect of an industrial chemical under subsection 22B(2) of the old law; and

EXPOSURE DRAFT

Controlled use permits under new law **Part 5**
Pending applications for renewal of controlled use permits **Division 2**

Section 51

- (b) the application is pending immediately before the commencement day.
- (2) For the purposes of the new law:
 - (a) the period for which the assessment certificate is in force under paragraph 28(2)(b) of Schedule 2 to the transitional Act is taken to be a term of the assessment certificate; and
 - (b) the application has effect, on and after the commencement day, as if it were an application to vary that term of the assessment certificate under section 43 of the new law; and
 - (c) section 44 of the new law applies in relation to the application as if:
 - (i) that section included a requirement that before deciding to vary the term of the assessment certificate the Executive Director must be satisfied in accordance with subsection (3) of this section; and
 - (ii) the reference in paragraph 44(2)(a) to 70 working days were instead a reference to 20 working days; and
 - (iii) paragraphs 44(3)(c) and (d) did not apply; and
 - (d) sections 46 and 47 of the new law do not apply in relation to the application; and
 - (e) section 49 of the new law applies as if that section included a requirement that the term of the assessment certificate as varied must not be more than 3 years from the day written notice of the decision is given; and
 - (f) subsection 49(4) of the new law applies in relation to the application as if that subsection were limited to a requirement to give written notice of the decision; and
 - (g) if a decision is not made on the application before the end of the remaining period for which the controlled use permit would have been in force under section 22G of the old law—the period for which the assessment certificate is in force under the new law is taken to continue until a decision is made on the application.

Note 1: For circumstances affecting the calculation of the consideration period, see section 169 of the new law.

Note 2: Controlled use permits that were in force under the old law immediately before the commencement day are taken to be time-limited assessment certificates under the new law: see item 28 of Schedule 2 to the transitional Act.

- (3) For the purposes of subparagraph (2)(c)(i), the Executive Director must be satisfied of the following:
 - (a) that the function or use of the industrial chemical:
 - (i) has not changed significantly since the controlled use permit was granted; and
 - (ii) is not likely to change significantly if the controlled use permit is renewed;
 - (b) that the volume of the industrial chemical being introduced by the applicant:
 - (i) has not significantly increased since the controlled use permit was granted; and
 - (ii) is not likely to significantly increase if the controlled use permit is renewed;

EXPOSURE DRAFT

Part 5 Controlled use permits under new law

Division 2 Pending applications for renewal of controlled use permits

Section 51

- (c) if the controlled use permit is for an industrial chemical that is manufactured in Australia by the applicant—that the method of manufacture of the industrial chemical employed by the applicant:
 - (i) has not changed since the controlled use permit was granted in a way that may result in an increased risk to occupational health and safety, public health or the environment; and
 - (ii) is not likely to change if the controlled use permit is renewed;
- (d) if the controlled use permit is for an industrial chemical that was not manufactured, or proposed to be manufactured in Australia at the time the permit was granted, by the applicant—that the industrial chemical has not been manufactured by the applicant in Australia since the controlled use permit was granted;
- (e) that no additional information has become available to the applicant as to any adverse effects of the industrial chemical on occupational health and safety, public health or the environment.

EXPOSURE DRAFT

Controlled use permits under new law **Part 5**
Transitioned controlled use permits **Division 3**

Section 52

Division 3—Transitioned controlled use permits

52 New law applies to transitioned controlled use permits subject to modifications

For the purposes of subitems 26(2) and 28(2) of Schedule 2 to the transitional Act, the new law applies in relation to an assessment certificate for an industrial chemical that:

- (a) is taken to have been issued under the new law in accordance with item 26 of that Schedule; or
- (b) is issued under the new law in accordance with item 28 of that Schedule; subject to the modification set out in this Division.

53 Varying the assessment certificate

- (1) This section applies in relation to an application under section 43 of the new law to vary a term of the assessment certificate.
- (2) Paragraph 44(2)(a) of the new law applies in relation to the application as if the reference in that paragraph to 70 working days were instead a reference to 20 working days.

Note: For circumstances affecting the calculation of the consideration period, see section 169 of the new law.

- (3) Paragraphs 44(3)(c) and (d), and sections 46 and 47, of the new law do not apply in relation to the application.
- (4) Section 49 of the new law applies in relation to the application as if:
 - (a) subsection 49(4) were limited to a requirement to give written notice of the decision; and
 - (b) if paragraph 52(b) of this instrument applies to the assessment certificate—subsection 49(6) does not apply.

Note: Subsection 49(6) of the new law also does not apply in relation to an assessment certificate that is taken to be issued under the new law in accordance with item 26 of Schedule 2 to the transitional Act: see item 27 of that Schedule.

54 Variations on Executive Director's initiative

Section 50 of the new law applies in relation to a variation by the Executive Director of a term of the assessment certificate as if:

- (a) paragraphs 50(1)(a), (b) and (c) do not apply; and
- (b) subsection 50(6) were limited to a requirement to give written notice of the decision; and
- (c) if paragraph 52(b) of this instrument applies to the assessment certificate—subsection 50(8) does not apply.

Note: Subsection 50(8) of the new law also does not apply in relation to an assessment certificate that is taken to be issued under the new law in accordance with item 26 of Schedule 2 to the transitional Act: see item 27 of that Schedule.

EXPOSURE DRAFT

Part 5 Controlled use permits under new law

Division 3 Transitioned controlled use permits

Section 55

55 Cancellation on Executive Director's initiative

Section 52 of the new law applies in relation to the cancellation of the assessment certificate as if:

- (a) subsection 52(1) were instead a power for the Executive Director to cancel the assessment certificate if the Executive Director is not satisfied that the risks to human health or the environment from the introduction and use of the industrial chemical can be managed; and
- (b) subsection 52(6) were limited to a requirement to give written notice of the decision; and
- (c) if paragraph 52(b) of this instrument applies to the assessment certificate—subsection 52(7) does not apply.

Note: Subsection 52(7) of the new law also does not apply in relation to an assessment certificate that is taken to be issued under the new law in accordance with item 26 of Schedule 2 to the transitional Act: see item 27 of that Schedule.

Part 6—Early introduction permits

56 Permits allowing introduction before assessment in the public interest

- (1) Despite the repeal of the old law by Part 1 of Schedule 1 to the transitional Act:
 - (a) subject to this section, section 30 of the old law continues to apply in relation to an application (the *related application*) for an assessment certificate for an industrial chemical made under section 23 of the old law, until a decision is made on the related application; and
 - (b) a permit granted under subsection 30(1B) of the old law is taken to be an authorisation for the introduction of the industrial chemical under section 30 of the new law until a decision is made on the related application under the new law.
- (2) For the purposes of subsection (1) of this section, subsections 30(2) and (3) of the old law apply in relation to an application under that section as if the requirement for a notice to be published in the Chemical Gazette were instead a requirement to publish a notice on the AICIS website.

57 Permits allowing introduction before assessment of non-hazardous chemicals

Paragraph 4(1)(b) of Schedule 2 to the transitional Act applies as if that paragraph were omitted and the following paragraph were substituted:

- (b) until that decision is made, a permit granted under subsection 30A(3) of the old law is taken to be an authorisation for the introduction of the industrial chemical for the purposes of paragraph 24(1)(b) of the new law so long as the introduction is in accordance with any conditions that are specified in the permit under subsection 30A(10) of the old law.

58 Pending applications for permits allowing introduction before assessment of non-hazardous chemicals

- (1) This section applies in relation to an application for an introduction permit made under section 30A of the old law if:
 - (a) the application is pending immediately before the commencement day; or
 - (b) the application is made under section 30A of the old law as continued in existence by item 4 of Schedule 2 to the transitional Act.
- (2) For the purposes of subsection (1) of this section, subsection 30A(11) of the old law applies, on and after the commencement day, in relation to the application as if the requirement for a notice to be published in the Chemical Gazette were instead a requirement to publish a notice on the AICIS website.

EXPOSURE DRAFT

Part 7 Secondary notifications under old law

Section 59

Part 7—Secondary notifications under old law

59 Incomplete assessments under old law following secondary notification

- (1) This section applies if:
 - (a) the Director requires the secondary notification of an industrial chemical under section 65 of the old law; and
 - (b) the Director causes the industrial chemical to be assessed in accordance with section 68 or 68A of the old law; and
 - (c) the assessment is not completed before the commencement day.
- (2) For the purposes of the new law:
 - (a) the assessment is taken, on and after the commencement day, to be an evaluation conducted by the Executive Director under Part 4 of the new law relating to the introduction of the industrial chemical; and
 - (b) the Executive Director must, within 20 working days of the commencement day:
 - (i) if the evaluation is of the introduction of an industrial chemical that is authorised by an assessment certificate—give written notice specifying the period within which the evaluation will be conducted to each holder of the assessment certificate; or
 - (ii) otherwise—publish on the AICIS website the period within which the evaluation will be conducted.

60 Assessment certificate variations following secondary notification assessment under old law

- (1) This section applies if:
 - (a) the Director causes an industrial chemical to be assessed in accordance with section 68 of the old law; and
 - (b) the Director concludes as part of that assessment that the assessment certificate may require variation (the *proposed variation*); and
 - (c) the proposed variation is not made before the commencement day.
- (2) For the purposes of the new law:
 - (a) the assessment is taken, on and after the commencement day, to be an evaluation completed by the Executive Director under Part 4 of the new law relating to the introduction of the industrial chemical; and
 - (b) section 50 of the new law applies in relation to the proposed variation as if:
 - (i) paragraphs (1)(b) and (c) do not apply; and
 - (ii) subsection (6) were limited to a requirement to give written notice of the decision; and
 - (iii) subsection (8) does not apply.

61 Inventory listing variations following secondary notification assessment under old law

- (1) This section applies if:
 - (a) the Director causes an industrial chemical to be assessed in accordance with section 68A of the old law; and
 - (b) the Director concludes as part of that assessment that a variation to the Inventory listing for the industrial chemical is necessary (the *proposed variation*); and
 - (c) the proposed variation is not made before the commencement day.
- (2) For the purposes of the new law:
 - (a) the assessment is taken, on and after the commencement day, to be an evaluation completed by the Executive Director under Part 4 of the new law relating to the introduction of the industrial chemical; and
 - (b) section 86 of the new law applies in relation to the proposed variation as if paragraphs (1)(b) and (c) do not apply.

EXPOSURE DRAFT

Part 8 Application fees payable under old law

Section 62

Part 8—Application fees payable under old law

62 Application fees payable under old law

If a fee was payable under a provision of the old law in relation to an application, section 170 of the new law applies in relation to the fee as if it were payable under a provision of the new law.

Part 9—Inventory

63 Application for confidential listing

Item 43 of Schedule 2 to the transitional Act applies as if:

- (a) subitem 43(1) of that Schedule also applied in relation to an assessment certificate for an industrial chemical that is issued under the new law in accordance with item 13 of that Schedule; and
- (b) the reference in subitem 43(2) of that Schedule to the holder of the assessment certificate included a reference to a person who is given a notice under section 64 of this instrument; and
- (c) subitem 43(2) of that Schedule required the application to be made within 20 working days of the day the Executive Director gives notice that the industrial chemical is to be listed on the Inventory; and
- (d) if notice was given under subsection 14(2) of the old law—paragraph 82(2)(a) of the new law does not apply in relation to an application under subitem 43(2) of that Schedule; and
- (e) if an application is made by a person who is given a notice under section 64 of this instrument—subsection 82(2) of the new law applies as if that subsection included a requirement for a decision to have been made on any application made under item 43 of that Schedule, and for the reconsideration and review rights under section 166 of the new law in relation to the decision on all applications to have been exhausted or have expired.

64 Confidence holders and holders of old law assessment certificates may also apply for confidential listing

- (1) This section applies if:
 - (a) an assessment certificate (the *earlier certificate*) for an industrial chemical either:
 - (i) is taken to have been issued under the new law in accordance with item 11 of Schedule 2 to the transitional Act; or
 - (ii) is issued under the new law in accordance with item 13 of that Schedule; and
 - (b) the Executive Director gives notice to the holder of the earlier certificate that the industrial chemical is to be listed on the Inventory; and
 - (c) the notice is given under paragraph 82(2)(a) of the new law; and
 - (d) either:
 - (i) another assessment certificate (a *later certificate*) for the same industrial chemical is taken to have been issued under the new law in accordance with item 11 of Schedule 2 to the transitional Act, or is issued under the new law in accordance with item 13 of that Schedule; or

EXPOSURE DRAFT

Part 9 Inventory

Section 65

- (ii) there are one or more confidence holders for an approval for the proper name or end use of the industrial chemical to be treated as confidential business information.
- (2) The Executive Director must give written notice of the proposed listing and the terms of item 43 of Schedule 2 to the transitional Act (including as modified by section 63 of this instrument) to:
- (a) each holder of the later certificate; and
 - (b) if the assessment certificate has been extended under the old law to cover another person—each such person; and
 - (c) each confidence holder.

65 Particulars of listing under old law

- (1) This section applies in relation to an industrial chemical that is taken to have been listed on the Inventory under item 39 or 40 of Schedule 2 to the transitional Act.
- (2) For the purposes of the new law:
- (a) if the approved particulars for the industrial chemical under subsections 12(3), (4) or (4A) of the old law included a condition of use to which the industrial chemical was subject, the condition of use is taken to be:
 - (i) if the industrial chemical is mentioned in clause 1 of Schedule 1 to this instrument—the defined scope of assessment for the industrial chemical under paragraph 81(1)(c) of the new law; or
 - (ii) if the industrial chemical is mentioned in clause 2 of Schedule 1 to this instrument—a condition relating to the introduction or use of the industrial chemical under paragraph 81(1)(d) of the new law; and
 - (b) the notification obligations under subsections 64(1) and 64(2) of the old law are taken to be specific requirements to provide information to the Executive Director under paragraph 81(1)(e) of the new law; and
 - (c) if the chemical name for the industrial chemical was treated as exempt information under the old law—the term required to be published under paragraph 81(1)(e) of the new law were instead a requirement to publish “confidential” in lieu of that term; and
 - (d) subsection 81(2) of the new law does not apply.

66 Removing chemicals that have been wrongly listed on the Inventory

- (1) This section applies if:
- (a) immediately before the commencement day, a chemical was listed in the non-confidential section of the old Inventory; and
 - (b) the chemical is not an industrial chemical under the old law or the new law.
- (2) For the purposes of the new law and the transitional Act, the chemical is taken to have never been listed in the old Inventory.

- (3) The Executive Director must publish on the AICIS website a list of the chemicals to which this section applies.

67 Details of trade name products

- (1) This section applies if:
- (a) the Director gives a notice under subsection 20AB(1) of the old law requiring information about a trade name product; and
 - (b) the notice includes a date (the *due date*) by which the information must be given to the Director; and
 - (c) one or more industrial chemicals that make up the trade name product are not listed in the Inventory.
- (2) The Executive Director must:
- (a) remove the trade name product from the Inventory; and
 - (b) if the Director receives the information by the due date—list each industrial chemical on the Inventory.
- (3) If an application is made under section 68, the Executive Director must not remove the trade name product or list the industrial chemical, unless:
- (a) a decision has been made on the application; and
 - (b) if the decision is to refuse the application—the reconsideration and review rights under section 166 of the new law in relation to the decision have been exhausted or have expired.
- (4) If the Executive Director lists the industrial chemical on the Inventory, the Executive Director must:
- (a) publish on the AICIS website a notice containing the following:
 - (i) the terms of the listing;
 - (ii) the reason why the industrial chemical was listed;
 - (iii) the day the industrial chemical was listed; and
 - (b) do so within 20 working days after the day the industrial chemical is listed.

68 Application for confidential listing in relation to trade name product

- (1) This section applies if:
- (a) the Director gives a notice under subsection 20AB(1) of the old law in relation to a trade name product; and
 - (b) a person applies to include in the confidential section of the old Inventory an industrial chemical that:
 - (i) makes up the trade name product; and
 - (ii) is not listed in the Inventory; and
 - (c) the application is pending immediately before the commencement day.
- (2) For the purposes of the new law:
- (a) the application has effect, on and after the commencement day, as if it were an application made under subsection 105(1) of the new law for the proper

EXPOSURE DRAFT

Part 9 Inventory

Section 68

name for the industrial chemical to be treated as confidential business information; and

- (b) if the application is approved:
 - (i) paragraph 108(3)(a) of the new law does not apply in relation to the industrial chemical; and
 - (ii) a reference in the new law to a requirement to publish an AACN in lieu of the proper name (including the CAS name, CAS number or molecular formula) is instead taken to be a reference to a requirement to publish “confidential” in lieu of each term of the Inventory listing for the industrial chemical.

EXPOSURE DRAFT

Information, reporting and confidentiality **Part 10**

Section 69

Part 10—Information, reporting and confidentiality

69 Information and documents obtained under section 100G of old law

Section 174 of the new law applies in relation to documents produced to the Director before the commencement day in accordance with a request under section 100G of the old law as if the document were produced to the Executive Director under a provision of the new law.

EXPOSURE DRAFT

Part 11 Movements authorised under section 106 of old law

Section 70

Part 11—Movements authorised under section 106 of old law

70 Introduction of industrial chemicals authorised under section 106 of old law

- (1) This section applies in relation to the introduction of an industrial chemical if:
 - (a) before the commencement day, the Director gives written approval, under subregulation 11C(3) or paragraph 11C(4)(a) of the old regulations, for the introduction; and
 - (b) immediately before the commencement day, the approval has not been exhausted or revoked.
- (2) Section 163 of the new law applies in relation to the introduction as if:
 - (a) the introduction of the industrial chemical were subject to the condition that the introduction must have been approved by the Executive Director, in writing, before the industrial chemical is introduced; and
 - (b) the written approval given by the Director under subregulation 11C(3) or paragraph 11C(4)(a) of the old regulations is taken to have been given under section 64 or 65 of the *Industrial Chemicals (General) Rules 2018*.

71 Export of industrial chemicals authorised under section 106 of the old law

- (1) This section applies in relation to the export of an industrial chemical if:
 - (a) before the commencement day, the Director gives written approval, under subregulation 11C(2) of the old regulations, for the export; and
 - (b) immediately before the commencement day, the approval has not been exhausted or revoked.
- (2) Section 163 of the new law applies in relation to the export as if:
 - (a) the export of the industrial chemical were subject to the condition that the export must have been approved by the Executive Director, in writing, before the industrial chemical is exported; and
 - (b) the written approval given by the Director under subregulation 11C(2) of the old regulations is taken to have been given under section 66 of the *Industrial Chemicals (General) Rules 2018*.

Part 12—Consideration period

72 Calculating the consideration period for an application

- (1) Section 169 of the new law applies as if:
- (a) the definition of *consideration period* in section 9 of the new law included a reference to the consideration period mentioned in subsection 11(4) of this instrument; and
 - (b) the table in subsection 169(1) of the new law included the following items at the end of the table:

12	Information is requested from an applicant under section 27 of the <i>Industrial Chemicals (Notification and Assessment) Act 1989</i>	The day the application is made	The earlier of: <ul style="list-style-type: none"> (a) the day a complete response is given to the Executive Director; or (b) the last day of the period specified in the notice in accordance with subsection 27(2) of the <i>Industrial Chemicals (Notification and Assessment) Act 1989</i>
13	A notice is given to an applicant under section 36 of the <i>Industrial Chemicals (Notification and Assessment) Act 1989</i>	The day the notice is given	The earliest of: <ul style="list-style-type: none"> (a) the day an application is made under subsection 37(1) of the <i>Industrial Chemicals (Notification and Assessment) Act 1989</i>; or (b) the day the applicant gives consent to the publication of the assessment report; or (c) the last day of the 14-day period beginning on the day the notice is given
14	A draft assessment	The day the draft	The earliest of:

EXPOSURE DRAFT

Part 12 Consideration period

Section 72

	report is given to an applicant under section 11 of the <i>Industrial Chemicals (Consequential Amendments and Transitional Provisions) Rules 2018</i>	assessment report is given	(a) the day a variation is requested under subsection 11(2) of the <i>Industrial Chemicals (Consequential Amendments and Transitional Provisions) Rules 2018</i> ; or (b) the day the applicant gives consent to the publication of the public report; or (c) the last day of the period mentioned in subsection 11(3) of those rules
15	A person requests a variation of a draft assessment report under subsection 11(2) of the <i>Industrial Chemicals (Consequential Amendments and Transitional Provisions) Rules 2018</i>	The day the variation is requested	The earlier of: (a) the day a decision is made on the variation application under subsection 11(4) of the <i>Industrial Chemicals (Consequential Amendments and Transitional Provisions) Rules 2018</i> ; or (b) the last day of the period mentioned in paragraph 11(4)(b) of those rules
16	Information is: (a) requested from an applicant or another person under section 21F of the <i>Industrial Chemicals (Notification and Assessment) Act 1989</i> ; and (b) not given to the Executive Director before the day this section commences	The day this section commences	The earlier of: (a) the day a complete response is given to the Executive Director; and (b) the last day of the period specified in the notice in accordance with subsection 21F(1) of the <i>Industrial Chemicals (Notification and Assessment) Act 1989</i>
17	Information is	The day notice of the	The earlier of:

EXPOSURE DRAFT

Consideration period **Part 12**

Section 72

	requested from an applicant under section 21SA of the <i>Industrial Chemicals (Notification and Assessment) Act 1989</i>	request is given	(a) the day a complete response is given to the Executive Director; and (b) the last day of the period specified in the notice in accordance with subsection 21SA(1) of the <i>Industrial Chemicals (Notification and Assessment) Act 1989</i>
18	An applicant amends, under section 21T of the <i>Industrial Chemicals (Notification and Assessment) Act 1989</i> , an application, or any document that accompanied the application	The day the original application is made	The day the amended application, or the amended document, is given to the Executive Director
19	Information is requested from an applicant under section 22D of the <i>Industrial Chemicals (Notification and Assessment) Act 1989</i>	The day notice of the request is given	The earlier of: (a) the day a complete response is given to the Executive Director; and (b) the last day of the period specified in the notice in accordance with subsection 22D(1) of the <i>Industrial Chemicals (Notification and Assessment) Act 1989</i>
20	An applicant amends, under section 22E of the <i>Industrial Chemicals (Notification and Assessment) Act 1989</i> , an application, or any document that accompanied the application	The day the original application is made	The day the amended application, or the amended document, is given to the Executive Director

(2) To avoid doubt, if:

EXPOSURE DRAFT

Part 12 Consideration period

Section 72

- (a) item 1 of the table in subsection 169(1) of the new law applies to a period in relation to a request for information from an applicant because of the operation of section 9, 34 or 46 of this instrument; and
 - (b) the same period could also be excluded under item 12, 17 or 19 of the table (as inserted by subsection (1) of this section) in respect of the same request;
- then:
- (c) item 12, 17 or 19 of the table (as the case requires) applies instead of item 1 of the table; and
 - (d) the period is only counted once in relation to the request.

Note: Sections 9, 34 and 46 of this instrument deem requests for further information that were made under the old law to be requests made under the new law.

(3) To avoid doubt, if:

- (a) item 5 of the table in subsection 169(1) of the new law applies to a period in relation to a request for information from an applicant because of the operation of section 24 of this instrument; and
 - (b) the same period could also be excluded under item 16 of the table (as inserted by subsection (1) of this section) in respect of the same request;
- then:
- (c) item 16 of the table applies instead of item 1 of the table; and
 - (d) the period is only counted once in relation to the request.

Note: Section 24 of this instrument deems requests for further information that were made under the old law to be requests made under the new law.

EXPOSURE DRAFT

Particulars of old Inventory listings **Schedule 1**

Clause 1

Schedule 1—Particulars of old Inventory listings

Note: See section 65.

1 Conditions of use that are taken to be the defined scope of assessment

For the purposes of subparagraph 65(2)(a)(i), the condition of use under the old law for an industrial chemical that is listed in an item in the following table is taken to be the defined scope of assessment for the industrial chemical under the new law.

Industrial chemicals listed on old Inventory		
Item	Chemical name	CAS no.
1	Hexanoic acid, 2-ethyl-, 1,1'-(2,2-dimethyl-1,3-propanediyl) ester	28510-23-8
2	1H-Indole-5,6-diol, 2,3-dihydro-, hydrobromide (1:1)	138937-28-7
3	Castor oil, monomaleate	241153-84-4
4	Pyridine, 4-ethenyl-, reaction products with 3a, 4, 7, 7a-tetrahydrodimethyl-4, 7-methano-1 H-indene	125352-06-9
5	Nitriles, tallow, hydrogenated, reaction products with acrylonitrile, hydrogenated, reaction products with propylene oxide	490021-69-7
6	Glycine, N-Acetyl-N-[3-(trifluoromethyl)phenyl]valyl-	379685-96-8
7	L-Ascorbic acid, 2-(3-aminopropyl hydrogen phosphate)	220644-17-7
8	L-Arginine, 3-(4-hydroxy-3-methoxyphenyl)-2-propenoate (1:1)	950890-74-1
9	L-Ascorbic acid, tetrakis(2-hexyldecanoate)	183476-82-6
10	L-Ascorbic acid, 2-[(2R)-3,4-dihydro-2,5,7,8-tetramethyl-2-[(4R,8R)-4,8,12-trimethyltridecyl]-2H-1-benzopyran-6-yl (2Z)-2-butenedioate], compd. with 1-propanol (1:1)	488109-67-7
11	Benzenesulfonic acid, 4-[(4,7,7-trimethyl-3-oxobicyclo[2.2.1]hept-2-ylidene)methyl]-	56039-58-8
12	Decanoic acid, mixed diesters with 1,2-butanediol and octanoic acid	686341-29-7
13	Fatty acids, C10-30, esters with lanolin alcs.	97862-72-1
14	9,12-Octadecadienoic acid (9Z,12Z)-, 30-[[[(1S,2R,3E)-2-hydroxy-1-(hydroxymethyl)-3-heptadecen-1-yl]amino]-30-oxotriacontyl ester	156170-27-3
15	Octadecanamide, N-[(1S,2R)-2-hydroxy-1-(hydroxymethyl)heptadecyl]-	2304-80-5
16	Octadecanamide, N-[(1S,2S,3R)-2,3-dihydroxy-1-(hydroxymethyl)heptadecyl]-	34354-88-6
17	Propanamide, 3-amino-N-[2-(1H-imidazol-5-yl)ethyl]-, hydrochloride (1:2)	57022-38-5
18	α -D-Glucopyranosiduronic acid, (3 β ,20 β)-20-carboxy-11-oxo-30-norolean-12-en-3-yl-2-O- β -D-glucopyranuronosyl-, potassium salt (1:2)	68797-35-3
19	1H-Benzimidazole-4,6-disulfonic acid, 2,2'-(1,4-phenylene)bis-,	180898-37-7

EXPOSURE DRAFT

Schedule 1 Particulars of old Inventory listings

Clause 1

Industrial chemicals listed on old Inventory		
Item	Chemical name	CAS no.
	disodium salt	
20	Quaternary ammonium compounds, di-C ₁₆₋₁₈ -alkyldimethyl, salts with hectorite	94891-31-3
21	2-Butanone, 1,3,4-trihydroxy	40031-31-0
22	4H-1-Benzopyran-4-one, 3-[(O-6-deoxy- α -L-mannopyranosyl-(1 \rightarrow 6)-O-[α -D-glucopyranosyl-(1 \rightarrow 4)]- β -D-glucopyranosyl)oxy]-2-(3,4-dihydroxyphenyl)-5,7-dihydroxy -	130603-71-3
23	2-Propenoic acid, homopolymer, ester with 1,2,3-propanetriol	104365-75-5
24	Poly(oxy-1,2-ethanediyl), α -hydro- ω -hydroxy-, ether with methyl β -D-glucopyranoside (4:1)	68239-42-9
25	L-Lysine, N-(1-oxohexadecyl)glycyl-L-histidyl-	147732-56-7
26	L-Serine, N ² -(1-oxohexadecyl)-L-lysyl-L-threonyl-L-threonyl-L-lysyl-	214047-00-4
27	1,3,4-Octadecanetriol, 2-amino-, (2S, 3S, 4R)-	554-62-1
28	α -D-glycopyranoside, methyl, monoether with triglycerol, dioctadecanoate	157175-98-9
29	Poly[oxy(methyl-1,2-ethanediyl)], α -hydro- ω -hydroxy-, ether with methyl β -D-glucopyranoside (4:1)	61849-72-7
30	Retinol, 15-[(9Z,12Z)-9,12-octadecadienoate]	631-89-0
31	Carbomer, sodium salt	73298-57-4
32	β -D-Glucan, (1 \rightarrow 3)-, carboxymethyl ether, sodium salt	9050-93-5
33	Dextran, carboxymethyl ether, sodium salt	39422-83-8
34	DNA, sodium complexes	438545-06-3
35	Dodecanoic acid, 2-(1-carboxyethoxy)-1-methyl-2-oxoethyl ester, sodium salt	13557-75-0
36	L-Glutamic acid, N-(1-oxooctadecyl)-, monosodium salt	38517-23-6
37	3,5-Heptanedione, 1,7-bis(4-hydroxy-3-methoxyphenyl)-	36062-04-1
38	Benzoic acid, 2-hydroxy-, tridecyl ester	19666-16-1
39	1,2,3-Propanetricarboxylic acid, 2-hydroxy-, 1,2,3-tris(2-octyldodecyl) ester	126121-35-5
40	1-Propanaminium, 2-(acetyloxy)-3-carboxy-N,N,N-trimethyl-, chloride, (2R)-	5080-50-2
41	Laminaria, extract	92128-82-0
42	Fats and Glyceridic oils, shea butter, unsaponifiable fraction	225234-14-0
43	Dodecanoic acid, dodecyl ester	13945-76-1
44	Waxes and waxy substances, orange roughy	91078-99-8
45	Sanguisorba officinalis, extract	84787-71-3
46	Glycoproteins, bovine-whey	84082-51-9
47	L-Glutamic acid, N-(1-oxododecyl)-, mixed (3 β)-cholest-5-en-3-yl and docosyl and octyldodecyl esters	244023-78-7
48	Manganese,	81065-76-1

EXPOSURE DRAFT

Particulars of old Inventory listings **Schedule 1**

Clause 2

Industrial chemicals listed on old Inventory		
Item	Chemical name	CAS no.
	chloro[[2,2'-[1,2-ethanediylbis[(nitrilo-κN)methylidyne]]bis[6-methoxyphenolato-κO]](2-)]-, (SP-5-13)-	
49	Micrococcus luteus, lysate	158765-79-8
50	Amylopectin, 2-hydroxy-3-(trimethylammonio)propyl ether, polymer with 1,2,3-propanetriol, hexadecanoate	528855-60-9
51	Phospholipids	123465-35-0
52	Propanoic acid, 2,2-dimethyl-, 2-octyldodecyl ester	158567-66-9
53	3,5,8-Trioxa-4-phosphaundec-10-en-1-aminium, 4-hydroxy-N,N,N,10-tetramethyl-9-oxo-, inner salt, 4-oxide, polymer with butyl 2-methyl-2-propenoate	125275-25-4
54	Mulberry, Morus bombycis, extract	1174920-93-4
55	Benzoic acid, 2-[4-(diethylamino)-2-hydroxybenzoyl]-, hexyl ester	302776-68-7
56	Propanol, (tetradecyloxy)-, acetate	135326-54-4
57	Hexadecanamide, 9,10,16-trihydroxy-N-[2-hydroxy-3-(tetradecyloxy)propyl]-	131276-37-4
58	Brazil nut, extract	160965-04-8
59	Potentilla recta, extract	90083-09-3
60	Aspalathus linearis, extract	776295-36-4
61	Salai, extract	97952-72-2
62	Poria cocos, extract	168456-53-9
63	Scutellaria baicalensis, extract	94279-99-9
64	Hexanoic acid, 2-ethyl-, C ₁₆₋₁₈ -alkyl esters	90411-68-0

2 Conditions of use that are taken to be conditions relating to introduction or use

For the purposes of subparagraph 65(2)(a)(ii), the condition of use under the old law for an industrial chemical that is listed in an item in the following table is taken to be a condition relating to the introduction or use of the industrial chemical under the new law.

Industrial chemicals listed on old Inventory		
Item	Chemical name	CAS no.
1	C.I. Pigment Yellow 34	1344-37-2
2	1-Propanol, 2,3-dibromo-, phosphate (3:1)	126-72-7
3	Hexanoic acid, 2-ethyl-, lead(2+) salt	301-08-6
4	Lead oxide (PbO ₂)	1309-60-0
5	Lead oxide (Pb ₃ O ₄)	1314-41-6
6	Lead oxide (PbO)	1317-36-8
7	Lead, bis(carbonato(2-))dihydroxytri-	1319-46-6

EXPOSURE DRAFT

Schedule 1 Particulars of old Inventory listings

Clause 2

Industrial chemicals listed on old Inventory		
Item	Chemical name	CAS no.
8	Octanoic acid, lead(2+) salt	7319-86-0
9	Sulfuric acid, lead(2+) salt (1:1)	7446-14-2
10	Chromic acid (H ₂ CrO ₄), lead(2+) salt (1:1)	7758-97-6
11	Nitric acid, lead(2+) salt	10099-74-8
12	Molybdic acid (H ₂ MoO ₄), lead(2+) salt (1:1)	10190-55-3
13	C.I. Pigment Red 104	12656-85-8
14	Lead chromate oxide (Pb ₂ (CrO ₄)O)	18454-12-1
15	Naphthenic acids, lead salts	61790-14-5
16	1,2-benzenedicarboxylic acid, bis(2-propylheptyl) ester	53306-54-0
17	Benzenamine, 4,4'-methylenebis[2-methyl-6-(1-methylethyl)-	16298-38-7
18	2-Propenoic acid, reaction products with acetic acid (γ - ω -perfluoro-C ₈₋₁₀ -alkyl) thio derivs. Bu esters and polyethylenimine	1374418-39-9
19	Thioimidodicarbonic acid ((HO)C(O)NHC(S)(OH)), O,O'-dibutyl ester	39142-36-4
20	Carbamic acid, [(butylthio)thioxomethyl]-, butyl ester	1001320-38-2
