

EXPOSURE DRAFT



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Industrial Chemicals (General) Amendment (Introductions of 10 kg or Less) Rules 2022

I, Ged Kearney, Assistant Minister for Health and Aged Care and Parliamentary Secretary to the Minister for Health and Aged Care, make the following rules.

Dated 2022

Ged Kearney [**DRAFT ONLY—NOT FOR SIGNATURE**]
Assistant Minister for Health and Aged Care
Parliamentary Secretary to the Minister for Health and Aged Care

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1 Name

This instrument is the *Industrial Chemicals (General) Amendment (Introductions of 10 kg or Less) Rules 2022*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made.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 Act 2019*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Schedule 1—Amendments

Industrial Chemicals (General) Rules 2019

1 Section 5

Insert:

GHS means the Globally Harmonized System of Classification and Labelling of Chemicals, Seventh revised edition, published by the United Nations in 2017.

Note: The GHS could in 2022 be viewed on the United Nations Economic Commission for Europe’s website (<https://unece.org>).

hazard class means the nature of a physical, health or environmental hazard under the GHS.

2 Subsection 27(1)

Omit “or (4)”, substitute “, (4) or (6)”.

3 At the end of section 27

Add:

Introductions of 10 kg or less of an industrial chemical

- (6) This subsection applies to the introduction of an industrial chemical by a person if:
- (a) the total volume of the industrial chemical introduced by the person in a registration year does not exceed 10 kg; and
 - (b) the industrial chemical satisfies the criteria for none of the following hazard classes in the GHS:
 - (i) germ cell mutagenicity;
 - (ii) carcinogenicity;
 - (iii) reproductive toxicity; and
 - (c) if the industrial chemical is introduced for an end use in cosmetics—the industrial chemical is not prohibited or restricted for use as a cosmetic, or for use in cosmetics:
 - (i) in the European Union under Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products, as in force from time to time; or
 - (ii) in the United States of America under the Federal Food, Drug, and Cosmetic Act, as in force from time to time; and
 - (d) the industrial chemical:
 - (i) is not, to the person’s knowledge, to be introduced as a solid or in a dispersion; or
 - (ii) is not known by the person to consist of particles, in an unbound state or as an aggregate or agglomerate, any of which have at least one external dimension in the nanoscale; and
 - (e) the industrial chemical:
 - (i) is not known by the person to contain fluorine; or

- (ii) is known by the person to be an inorganic salt; and
 - (f) the industrial chemical is not known by the person to be persistent, bioaccumulative and toxic (within the meaning given by the Guidelines); and
 - (g) neither of the following subparagraphs apply:
 - (i) the Executive Director has cancelled an assessment certificate for the industrial chemical under section 52 of the Act;
 - (ii) the Executive Director has removed an Inventory listing for the industrial chemical under section 95 of the Act in circumstances to which subparagraph 95(1)(c)(i) of the Act applied.
- (7) To avoid doubt, for the purposes of subparagraph (6)(g)(i), it does not matter:
- (a) who was the holder of the assessment certificate; or
 - (b) who was covered by the certificate.

4 After section 42

Insert:

42A Introductions of 10 kg or less of an industrial chemical

- (1) This section applies if an introduction of an industrial chemical by a person is a reported introduction in accordance with subsection 27(6).

Note: Subsection 27(6) deals with introductions of an industrial chemical that do not exceed 10 kg in a registration year.

- (2) For the purposes of paragraph 97(2)(b) of the Act, the information mentioned in an item of the following table is prescribed.

Pre-introduction reports for introductions of 10 kg or less of an industrial chemical

Item	Prescribed information
------	------------------------

- | | |
|---|--|
| 1 | If the CAS number for the industrial chemical is known to the person: <ul style="list-style-type: none">(a) the CAS number; and(b) the CAS name, IUPAC name or INCI name for the industrial chemical; and(c) any other names by which the industrial chemical is known to the person |
| 2 | If: <ul style="list-style-type: none">(a) a CAS number for the industrial chemical is not assigned, or the CAS number for the industrial chemical is not known to the person; and(b) the CAS name or IUPAC name for the industrial chemical is known to the person; all of the following information: <ul style="list-style-type: none">(c) the CAS name or IUPAC name for the industrial chemical;(d) any other names by which the industrial chemical is known to the person |
| 3 | If: <ul style="list-style-type: none">(a) a CAS number for the industrial chemical is not assigned, or the CAS number for the industrial chemical is not known to the person; and(b) neither the CAS name nor the IUPAC name for the industrial chemical is known to the person; and(c) the INCI name for the industrial chemical is known to the person; the INCI name for the industrial chemical |
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Schedule 1 Amendments

Pre-introduction reports for introductions of 10 kg or less of an industrial chemical

Item	Prescribed information
------	------------------------

- | | |
|---|---|
| 4 | If: <ul style="list-style-type: none">(a) a CAS number for the industrial chemical is not assigned, or the CAS number for the industrial chemical is not known to the person (the <i>introducer</i>); and(b) neither the CAS name, the IUPAC name nor the INCI name for the industrial chemical is known to the introducer; all of the following information: <ul style="list-style-type: none">(c) the names by which the industrial chemical is known to the introducer;(d) the name of a person whom the introducer believes on reasonable grounds would, if requested to do so, give to the Executive Director:<ul style="list-style-type: none">(i) the CAS number (if assigned) for the industrial chemical; and(ii) the CAS name, IUPAC name or INCI name for the industrial chemical |
| 5 | <ul style="list-style-type: none">(a) if the person knows that the industrial chemical is to be introduced as a solid, or knows that the industrial chemical is to be introduced in dispersion—whether the industrial chemical is to be introduced as a solid or in dispersion; or(b) if the person knows that the industrial chemical is to be introduced neither as a solid nor in dispersion—that the industrial chemical is to be introduced neither as a solid nor in dispersion; or(c) otherwise—that the person does not know whether the industrial chemical is to be introduced as a solid, in dispersion, or neither |
| 6 | The end use for the industrial chemical |
| 7 | Any known hazard classification for the industrial chemical |
| 8 | A declaration that the requirements of subsection 27(6) have been met for the introduction |
-

- (3) For the purposes of subsection (2), if:
 - (a) a person does not know the CAS number, CAS name, IUPAC name or INCI name for an industrial chemical; but
 - (b) it would be reasonably practicable for the person to find out that number or name;the person is taken to know that number or name.

5 Section 46

Before “For the purposes of”, insert “(1)”.

6 Section 46

After “of the Act,”, insert “and subject to subsection (3) of this section,”.

7 Section 46

After “listed introduction of an industrial chemical”, insert “by a person”.

8 At the end of section 46

Add:

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Amendments **Schedule 1**

Alternative record keeping requirements for listed introductions of 10 kg or less of an industrial chemical

- (2) Subsection (3) applies to the listed introduction of an industrial chemical by a person in a registration year if the total volume of the industrial chemical introduced by the person in the registration year does not exceed 10 kg.
- (3) For the purposes of paragraph 104(2)(b) of the Act, the prescribed records in relation to the introduction are:
- (a) records of the kind prescribed by subsection (1) of this section in relation to the introduction; or
 - (b) the following records:
 - (i) if a circumstance mentioned in column 1 of an item in the following table applies in relation to the introduction—records of the kind mentioned in column 2 of the item;
 - (ii) the names of any products containing the industrial chemical that are imported into Australia by the person;
 - (iii) records to demonstrate that the total volume of the industrial chemical introduced by the person in the registration year does not exceed 10 kg;
 - (iv) any known hazard classification for the industrial chemical.

Records that must be kept—listed introductions of 10 kg or less of an industrial chemical

Column 1		Column 2
Item	If ...	the kinds of records that must be kept are ...
1	the CAS number for the industrial chemical is known to the person	(a) the CAS number for the industrial chemical; and (b) the CAS name, IUPAC name or INCI name for the industrial chemical
2	(a) a CAS number for the industrial chemical is not assigned, or the CAS number for the industrial chemical is not known to the person; and (b) the CAS name, IUPAC name or INCI name for the industrial chemical is known to the person	(a) records that indicate that the industrial chemical is listed on the Inventory; and (b) the CAS name, IUPAC name or INCI name for the industrial chemical
3	(a) a CAS number for the industrial chemical is not assigned, or the CAS number for the industrial chemical is not known to the person (the <i>introducer</i>); and (b) neither the CAS name, IUPAC name nor INCI name for the industrial chemical is known to the introducer	(a) records that indicate that the industrial chemical is listed on the Inventory; and (b) the names by which the industrial chemical is known to the introducer; and (c) the name of a person whom the introducer believes on reasonable grounds would, if requested to do so, give to the Executive Director: <ul style="list-style-type: none">(i) the CAS number (if assigned) for the industrial chemical; and(ii) the CAS name, IUPAC name or INCI name for the industrial chemical

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Schedule 1 Amendments

- (4) For the purposes of subsection (3), if:
- (a) a person does not know the CAS number, CAS name, IUPAC name or INCI name for an industrial chemical; but
 - (b) it would be reasonably practicable for the person to find out that number or name;
- the person is taken to know that number or name.

9 After section 56

Insert:

56A Introductions of 10 kg or less of an industrial chemical

- (1) This section applies if an introduction of an industrial chemical by a person is a reported introduction in accordance with subsection 27(6).

Note: Subsection 27(6) deals with introductions of an industrial chemical that do not exceed 10 kg in a registration year.

- (2) For the purposes of paragraph 104(2)(b) of the Act, the following kinds of records are prescribed:
- (a) the names by which the industrial chemical is known to the person (which must include the name included in the pre-introduction report for the industrial chemical);
 - (b) the names of any products containing the industrial chemical that are imported into Australia by the person;
 - (c) records to demonstrate that the requirements of subsection 27(6) are being met.

Note: For the names that must be included in the pre-introduction report, see section 42A of this instrument.