

Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Bill

Government Bill

As reported from the Environment Committee

Commentary

Recommendation

The Environment Committee has examined the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Bill and recommends that it be passed. We recommend all amendments unanimously.

Introduction to the bill

The bill would amend the Hazardous Substances and New Organisms Act 1996.

Under the Act, the Environmental Protection Authority (the Authority) is the regulator responsible for making decisions on whether to approve new hazardous substances, and whether to set any controls on them to manage risks. The Authority is also responsible for reassessments of approved substances to make decisions about whether any controls on them need to be updated, and whether a substance should no longer be approved.

The bill aims to address concerns that the assessment and reassessment of hazardous substances in New Zealand require lengthy and costly processes. The resulting delays could mean that beneficial chemicals, including safer alternatives to existing ones, take longer to come into use. Delays in reassessments may mean that the safety and environmental controls on chemicals may not be fit for purpose, but they continue to be used.

The bill seeks to improve the processes and information available for the assessment and reassessment of hazardous substances by:

- enabling the Authority to make better use of information from international regulators
- making improvements to the reassessment process

- making some technical amendments.

We discuss these below.

Improvements to make better use of information from overseas

The bill would enable the Authority, through notice in the *Gazette*, to recognise overseas bodies as “international regulators” if they meet certain criteria. The Authority could then use information from international regulators to:

- carry out a rapid assessment for hazardous substances, using a process created in the bill (clause 5)
- update hazard classifications of substances and corresponding controls, following a simplified process created under the bill (clause 9)
- make a decision to temporarily restrict certain uses of a hazardous substance if certain criteria are met, which could be based on international information (clause 10).

Improvements to the Authority’s reassessment process

The bill seeks to make the following improvements to the Authority’s reassessment processes:

- enabling the Authority to engage in more targeted consultation during modified reassessments (clause 7)
- requiring the Authority to develop a publicly available work plan for reassessments (clause 4)
- providing a simplified process for the Authority to update hazard classifications of substances when the Authority has undertaken a recent assessment of a related hazardous substance (clause 9)
- enabling the delegation of some decision-making powers in certain situations, such as the simplified process for updating hazard controls, if the Authority decides not to consult (clause 15)
- enabling the Authority to align the time frames for the assessment and reassessment of related hazardous substances (clause 8)
- enabling the Authority to temporarily restrict certain uses of a hazardous substance, subject to specific requirements being met (clause 10).

We note that clause 27 of the bill would create a strict liability offence for breaching a temporary restriction on the use of a hazardous substance under new section 64A. Clause 28 of the bill would create a corresponding penalty of a fine not exceeding \$50,000 for a natural person or \$100,000 for other legal persons (such as a company). The new offence and penalty are similar in approach to existing offences and penalties in the Act.

Additional amendments to the Act in the bill

The bill would make three changes to the Act that are unrelated to improving assessments, but that would assist in improving the Act's overall operation. The changes are:

- clarifying that, under section 68, the Minister can call-in decisions relating to reassessments (as well as assessments)
- correcting certain sections of the Act so they refer to the powers of entry for inspection in both sections 103 and 103A
- creating a penalty for the offence set out in section 109(1)(da) for failing to comply with certain notices from the Authority.

These amendments are to address omissions or provide clarification to previous amendments to the Act.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We are satisfied that our initial concerns have been addressed, for the reasons set out in the departmental report. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

The rest of this commentary covers the amendments we recommend to the bill as introduced.

New section 20B—Publication of decisions

Clause 4 of the bill would insert section 20B into the Act, setting out the notification requirements when the Authority makes certain decisions. We understand that the processes prescribed in the new section are the current practice of the Authority, and the bill would make them a statutory requirement.

New section 20B provides that, when the Authority makes certain decisions¹ on applications, it would be required to:

- give its decision in writing
- give written notice of its decision to the applicant, and to every person who made a submission
- give public notice of the decision as soon as possible.

The Authority could withhold any information if it deemed information relating to transshipment was a risk to national safety and security.

¹ The decisions include those made under Part 5 of the Act (Assessment of hazardous substances and new organisms), Part 6A (Group standards), and section 62 (Grounds for reassessment of a substance or organism).

We consider that, rather than just giving written notice of a decision to the applicant and submitters, the new section should require the Authority to give a copy of the decision to the applicant and submitters. We recommend amending clause 4, proposed section 20B(1)(b) accordingly.

We understand that the Authority's current practice also includes publishing its decisions on approvals. Our expectation is this practice would continue.

New section 20C—Reassessments work plan

Under the Act, hazardous substances that are approved are approved in perpetuity. However, there can be reassessments when new information or other circumstances come to light that indicate the need to review a hazard classification, controls, or the approval itself. The Authority's chief executive can initiate reassessments. However, anyone can ask the Authority to initiate a reassessment.

Clause 4 of the bill would insert section 20C into the Act. New section 20C would create a statutory requirement for the Authority to develop a work plan that sets priorities for reassessments of hazardous substances. The plan must include a list of substances (or groups of related chemicals or substances) to be reassessed, and indicative time frames for the start of work on each. The work plan would need to:

- give priority to certain hazardous substances that are either prohibited or restricted during a reassessment under sections 64 and 64A of the Act
- be made available free of charge on an Internet site maintained by, or on behalf of, the Authority
- be updated at least once each calendar year.

We propose two amendments to new section 20C, which we discuss below.

Work plan should only apply to reassessments initiated by the chief executive

We understand that the intent of the bill is for the reassessments work plan to only include reassessments initiated by the chief executive, and not applicant-initiated reassessments. This is because it is not possible to predict what reassessments might be sought by external applicants in advance of them applying, or approaching the Authority about it. Therefore, we recommend amending new section 20C(1) to make it clear that the reassessments work plan only needs to include reassessments that are requested by the chief executive of the Authority.

Matters to take into account when developing or updating a work plan

New section 20C(2) requires the Authority, when developing or updating a work plan, to take into account:

- Part 2 of the Act, which sets out the purpose of the Act
- the criteria section, 62(2)(a) to (d), which sets out the grounds for reassessment of a substance or organism.

We do not consider that the purpose of the Act set out in Part 2 should be expressly referenced in new section 20B. The Authority must always consider Part 2 of the Act

when exercising its functions and powers under the Act, regardless of the section under which it is operating. It is not necessary to expressly reference Part 2 in subsequent sections. To avoid any implication that Part 2 is less relevant elsewhere in the Act, we recommend removing the express reference to it in new section 20C(2).

Authority may recognise overseas bodies as international regulators

The bill seeks to allow the Authority to make better use of information from international regulators, including in the following ways:

- Clause 5 would amend section 28A of the Act to enable the Authority to make a rapid assessment of a hazardous substance if the use of that substance, or a substance of similar composition or hazardous properties, has already been lawfully authorised by an international regulator.
- Clause 9 would insert new section 63D, which would enable the Authority to do a modified reassessment to change a hazard classification or control to align with a classification or control set either by an international regulator or by the Authority for a related substance.

Clause 11 would insert new section 76E into the Act to provide the process for determining an overseas body's status as an "international regulator" for the purposes of sections 28A and 63D. The Authority could, by notice in the *Gazette*, recognise one or more overseas bodies as international regulators for the purposes of decision-making under sections 28A and 63D.

We think that the new section should be amended to provide an express power to amend notices about international regulators. The power to amend a notice should be carried out taking into account the same process and considerations as when making a notice. An exception to this should be where the Authority considers an amendment is minor in effect or corrects a minor or technical error.

We recommend inserting new section 76E(4) accordingly.

Section 64 and new Section 64A—Suspension of approvals or temporary restriction of use during reassessment

As discussed earlier in our commentary, clause 10 would insert new section 64A into the Act, giving the Authority a power to temporarily restrict the use of a hazardous substance during reassessment if certain circumstances are met.

This new section would complement existing section 64 of the Act. Under section 64, where a decision to reassess a hazardous substance has been publicly notified under section 63(2), the Authority can prohibit the use of a hazardous substance during the reassessment if certain circumstances are met.

We propose amending a typographical error in section 64. Where the section references "a decision to reassess", it should refer to "an application to reassess", to provide consistency with section 63(2) to which it refers.

We recommend inserting clause 24A into the bill to amend section 64 of the Act accordingly.

Other matters outside the scope of the bill

We received some submissions on genetic modification, and while this is outside the scope of the bill, we were told by officials that some work is underway in the biomedical field. We understand that advice is likely to be provided to the Government during the year.

Appendix

Committee process

The Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Bill was referred to the committee on 10 August 2021.

The closing date for submissions on the bill was 3 October 2021. We received and considered submissions from 28 interested groups and individuals. We heard oral evidence from 12 submitters at hearings held via videoconference.

We received advice on the bill from Manatū Mō Te Taiao Ministry for the Environment and Te Mana Rauhi Taiao Environmental Protection Authority. Te Tari o Te Manahautū o Te Whare Māngai Office of the Clerk of the House of Representatives provided advice on the bill's legislative quality. Te Tari Tohutohu Pāremata Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Hon Eugenie Sage (Chairperson)

Rachel Brooking

Tāmati Coffey

Simon Court

Anahila Kanongata'a-Suisuiki

Hon Scott Simpson

Stuart Smith

Tangi Utikere

Angie Warren-Clark

**Hazardous Substances and New Organisms (Hazardous
Substances Assessments) Amendment Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon David Parker

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Government Bill

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Schedule

New Part 2 inserted into Schedule 7

14

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act **2021**.

2 Commencement

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This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Hazardous Substances and New Organisms Act 1996.

**Part 1
Main amendments**

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4 New sections 20B and 20C inserted

After section 20A, insert:

20B Publication of decisions

(1) If the Authority makes a decision under Part 5 or 6A in respect of any application (including a request under section 62), the Authority must— 15

- (a) give its decision in writing, including reasons for the decision; and
- (b) give ~~written notice~~ a copy of the decision to the applicant and every person who made a submission; and
- (c) give public notice of the decision as soon as practicable after the decision is made. 20

(2) The Authority may withhold any information relating to transshipment applications from a public notice under this section if, in its opinion, the information could pose a risk to national safety and security.

20C Reassessments work plan

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(1) The Authority must, within 12 months of the commencement of this section, develop a work plan that sets the priorities for ~~the reassessments~~ of hazardous substances that are requested by the chief executive of the Authority.

(2) When developing or updating a work plan, the Authority must take into account ~~the criteria set out in~~ **section 62(2)(a) to (d)**.— 30

- (a) Part 2; and
- (b) ~~the criteria set out in~~ **section 62(2)(a) to (d)**.

(3) The work plan must include—

- (a) a list of substances or groups of related chemicals or substances to be reassessed; and
 - (b) indicative time frames for the start of work by the Authority to reassess each of the listed substances or groups.
- (4) The Authority must ensure that the work plan— 5
 - (a) gives highest priority to the following:
 - (i) hazardous substances that are prohibited from use under section 64;
 - (ii) hazardous substances that are subject to restriction under **section 64A**; and 10
 - (b) is made available, free of charge, on an Internet site maintained by or on behalf of the Authority; and
 - (c) is updated no less than once each calendar year.
- 5 Section 28A amended (Rapid assessment for importation or manufacture of hazardous substances)** 15
 - (1) After section 28A(2)(a), insert:
 - (ab) the use of the same substance or a substance having a similar composition and similar hazardous properties has been lawfully authorised by an international regulator; or
 - (2) After section 28A(4), insert: 20
 - (5) An applicant relying on **subsection (2)(ab)** must provide the Authority with evidence of their right to use the information relied on in the application.
 - (6) The Authority must not make a rapid assessment under **subsection (2)(ab)** if the Authority considers the application will have—
 - (a) significant cultural, economic, environmental, ethical, health, or international effects; or 25
 - (b) significant effects in an area in which the Authority lacks sufficient knowledge or expertise.
- 6 Section 53 amended (Applications required to be publicly notified)**

Replace section 53(4) with: 30

 - (4) The Authority must notify the Minister when it receives an application that—
 - (a) is required to be publicly notified; or
 - (b) the Authority decides to publicly notify.
- 7 New section 53AA inserted (Notification and consultation for applications under Part 5)** 35

After section 53, insert:

53AA Notification and consultation for applications under Part 5

- (1) The Authority must, when it receives an application made under a provision in Part 5, notify—
 - (a) any department or Crown entity that, in the opinion of the Authority, is likely to have an interest in the application; and 5
 - (b) if the application is an application for approval of a new organism,—
 - (i) the Department of Conservation; and
 - (ii) any local authority if, in the opinion of the Authority, the local authority is likely to have an interest in the application; and
 - (c) if the application is an application for approval of a hazardous substance, WorkSafe. 10
- (2) **Subsections (3) to (6)** apply to all applications under sections 63A, 63C, and **63D**.
- (3) The Authority may reassess an application under section 63A, 63C, or **63D** without publicly notifying the reassessment in accordance with section 53. 15
- (4) The Authority must consult in accordance with **subsection (5)** if the Authority—
 - (a) does not publicly notify an application in accordance with section 53; and
 - (b) considers that the application will have— 20
 - (i) significant cultural, economic, environmental, ethical, health, or international effects; or
 - (ii) significant effects in an area in which the Authority lacks sufficient knowledge or expertise.
- (5) The Authority must— 25
 - (a) do everything reasonably practicable on its part to consult all persons who, in its opinion, are likely to be directly affected by the reassessment; and
 - (b) give those persons a reasonable opportunity to make submissions and comments to the Authority on the reassessment; and 30
 - (c) consider all submissions and comments received before approving or declining the application.
- (6) If the Authority is not required to consult by **subsection (4)**, the Authority may consult any person before approving or declining the application.

8 New section 59A inserted (Joint processing and decision making on related applications) 35

After section 59, insert:

59A Joint processing and decision making on related applications

- (1) This section applies if—
 - (a) the Authority receives related applications; and
 - (b) at least 1 of the applications is publicly notified in accordance with section 53 or required to be consulted on by **section 53AA(4)**; and 5
 - (c) the Authority considers that decisions on the applications should be made on the same date.
- (2) The Authority may extend a time period that applies to the processing of the related applications to ensure that—
 - (a) they are heard (if more than 1 application is to be heard) at the same time and place; and 10
 - (b) decisions on the applications are made on the same date.
- (3) However, the Authority may not extend the time period beyond the latest date that applies to the related applications.
- (4) In this section, **related applications** means applications in respect of hazardous substances (whether or not they have been approved or deemed to be approved) that are, or include, related chemicals or substances. 15

Compare: 2012 No 72 s 44

9 New section 63D inserted (Modified reassessment to align classifications)

After section 63C, insert:

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63D Modified reassessment to align classifications

- (1) Despite anything to the contrary in this Act, the Authority may reassess a hazardous substance in accordance with this section if the Authority is satisfied that—
 - (a) a reassessment of the hazardous substance under section 63 is not appropriate because the reassessment will involve only a specific aspect of the approval; and 25
 - (b) the amendment is not a minor or technical amendment to which section 67A applies; and
 - (c) the reassessment is necessary to change a hazard classification or control to align with— 30
 - (i) the equivalent of a hazard classification or control that has been set by an international regulator; or
 - (ii) a hazard classification or control of a related substance that was the subject of an Authority decision after the hazardous substance was approved by the Authority. 35
- (2) A reassessment under this section—

- (a) may vary 1 or more of the following:
 - (i) the EPA controls that attach to a hazardous substance:
 - (ii) the description of a hazardous substance:
 - (iii) the hazard classification of a hazardous substance; but
 - (b) may not revoke an approval given to import or manufacture a hazardous substance under this Act.

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- (3) A reassessment under this section is treated as an application, and **sections 53AA** and 55 to 61 apply with all necessary modifications.

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- (4) The Authority may approve or decline an application for reassessment under this section as it considers appropriate after taking into account—

 - (a) all the effects associated with the reassessment; and
 - (b) the best international practices and standards for the safe management of hazardous substances.

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- (5) Section 65(e) applies, with all necessary modifications, to a reassessment under this section.

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- (6) Sections 77, 77A, and 77B apply to any hazardous substance that is approved under this section and, for the purposes of this section, controls previously imposed under section 77A have effect as other specified controls under that section.

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- (7) This section does not limit the operation of section 77(2)(a).

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- (8) An applicant relying on **subsection (1)(c)(i)** must provide the Authority with evidence of the right to use the information relied on in the application.

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- (9) The Authority must not reassess a hazardous substance under this section more than once in a 12-month period.

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10 New section 64A inserted (Temporary restriction of use during reassessment)

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After section 64, insert:

- 64A Temporary restriction of use during reassessment**

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- (1) The Authority may, by notice in the *Gazette*, restrict the use of a hazardous substance in accordance with this section if—

 - (a) a decision under **section 62(2)** that grounds exist to reassess the hazardous substance has been publicly notified; and
 - (b) the Authority has not approved or declined a reassessment application relating to the decision under **section 62(2)**, or no application for reassessment has been made; and
 - (c) the Authority has reasonable cause to believe that there is actual or likely danger to human health or safety or the environment from the use of the substance; and

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- (d) the Authority has consulted the persons who the Authority considers are likely to be directly affected by the restriction of use.
- (2) The notice—
 - (a) may prohibit the use of a hazardous substance in specified circumstances or places, or by specified classes of persons; but 5
 - (b) must not prohibit the use of the hazardous substance generally.
- (3) The notice—
 - (a) must identify the nature of the restriction, including any conditions, on the use of the hazardous substance; and
 - (b) remains in force until the earliest of the following: 10
 - (i) the date on which the Authority approves or declines a reassessment application relating to the hazardous substance:
 - (ii) the date on which the applicant withdraws a reassessment application relating to the hazardous substance:
 - (iii) the date that is 1 year after the date of notification in the *Gazette* if 15
 - no reassessment application relating to the grounds decision under **section 62(2)** has been lodged with the Authority for the substance by that date.
- (4) The Authority must publish the notice on an Internet site maintained by or on behalf of the Authority as soon as practicable after the notice has been published in the *Gazette*. 20

11 New section 76E inserted (Authority may recognise overseas bodies as international regulators)

After section 76D, insert:

- 76E Authority may recognise overseas bodies as international regulators** 25
- (1) The Authority may, by notice in the *Gazette*, recognise 1 or more overseas bodies as international regulators for the purposes of sections 28A and **63D**.
 - (2) Before recognising an overseas body, the Authority must—
 - (a) publicly notify its intention to issue the notice; and
 - (b) give interested persons a reasonable time, which must be specified in the notification published under **paragraph (a)**, to make submissions on the proposal; and 30
 - (c) consult any persons, representative groups within the hazardous substances industry or elsewhere, government departments, WorkSafe, and Crown entities whom the Authority considers appropriate in each case. 35
 - (3) The Authority must not recognise an overseas body unless the Authority has considered whether—

- (a) the body operates in a manner comparable to the Authority in regulating hazardous substances; and
- (b) the legislative regime regulating hazardous substances in which the body operates is comparable to this Act; and
- (c) the information from the body is readily accessible by the Authority. 5
- (4) The Authority may amend a notice made under this section—
 - (a) to recognise, or revoke recognition of, 1 or more overseas bodies as international regulators—
 - (i) in accordance with **subsections (1) and (2)**; and
 - (ii) having considered the criteria in **subsection (3)(a) to (c)**; and 10
 - (b) without complying with **subsections (2) and (3)**, if it considers that the amendment is minor in effect or corrects a minor or technical error.

Part 2

Consequential and other amendments

- 12 Section 2 amended (Interpretation)** 15
 - (1) In section 2(1), replace the definition of **EPA notice** with:

EPA notice means a notice issued in the *Gazette* by the Authority under Part 6, or under any provision of this Act that applies section 76C, except a notice issued under **section 76E**
 - (2) In section 2(1), insert in their appropriate alphabetical order: 20

international regulator means an overseas body recognised by a notice issued under **section 76E**

related chemicals or substances means chemicals or substances with the same or very similar active ingredients
- 13 Section 3A replaced (Transitional and savings provisions relating to amendments to Act)** 25

Replace section 3A with:

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 7 have effect according to their terms. 30
- 14 Section 11 amended (Powers, functions, and duties of Authority)**

In section 11(1)(b)(ii), after “section 103”, insert “or 103A”.
- 15 Section 19 amended (Delegation by Authority)**
 - (1) After section 19(1)(ab), insert:

- (ac) the issuing of a notice under **section 76E**; and
- (2) After section 19(2)(cb), insert:
 - (cc) the power to decide any application under **section 63D**, if it is not publicly notified under section 53(2) or required to be consulted on by **section 53AA(4)**, to its chief executive: 5
- 16 Section 29 amended (Determination of applications)**
Repeal section 29(3).
- 17 Section 32 amended (Decision on application)**
Repeal section 32(3).
- 18 Section 38 amended (Determination of applications to import or release)** 10
Repeal section 38(5).
- 19 Section 45 amended (Determination of application)**
Repeal section 45(3).
- 20 Section 48 amended (Determination of applications)**
Repeal section 48(3). 15
- 21 Section 62 replaced (Grounds for reassessment of a substance or organism)**
Replace section 62 with:
 - 62 Grounds for reassessment of substance or organism**
 - (1) Any person (including the chief executive of the Authority) may at any time request the Authority to decide whether there are grounds for reassessing any of the following where the organism or substance has previously been assessed by the Authority: 20
 - (a) any new organism in containment:
 - (b) any conditionally released new organism: 25
 - (c) any qualifying organism released with controls:
 - (d) any hazardous substance.
 - (2) If a request has been made under **subsection (1)**, the Authority may decide that grounds exist to reassess the organism or substance after taking into account— 30
 - (a) that significant new information relating to the effects of the organism or substance has become available; or
 - (b) any change in controls under the Health and Safety at Work Act 2015; or

- | | | |
|--|--|--------------------|
| <p>(c)</p> <p>(d)</p> <p>(e)</p> <p>(3)</p> | <p>that another substance with similar or improved beneficial effects and reduced adverse effects has become available; or</p> <p>that information showing a significant change of use, or a significant change in the quantity manufactured, imported, or developed, has become available; or</p> <p>whether the substance has been included in the reassessments work plan required by section 20C.</p> <p>For the purposes of subsection (1), assessed by the Authority means a decision under any of sections 28A, 29, 32, 38BA, 38C, 38I, 42, 42A, 42B, 42C, 45, and 48 or a decision by the Minister under section 73, or a deemed assessment under section 160A.</p> | <p>5</p> <p>10</p> |
| <p>22 Section 63 amended (Reassessment)</p> <p>Replace section 63(1) with:</p> | | |
| <p>(1)</p> | <p>Any person (including the chief executive of the Authority) may request the Authority to proceed with a reassessment following a decision under section 62(2).</p> | <p>15</p> |
| <p>23 Section 63A amended (Modified reassessment procedure for amendments to approvals of hazardous substances)</p> | | |
| <p>(1)</p> <p>(2)</p> | <p>In section 63A(3), replace “sections 55 to 61” with “sections 53AA and 55 to 61”.</p> <p>Repeal sections 63A(4) and (5).</p> | <p>20</p> |
| <p>24 Section 63C amended (Modified reassessment to change controls in other cases)</p> | | |
| <p>(1)</p> <p>(2)</p> | <p>In section 63C(3), replace “sections 55 to 61” with “sections 53AA and 55 to 61”.</p> <p>Repeal sections 63C(4) and (5).</p> | <p>25</p> |
| <p><u>24A Section 64 amended (Suspension of approvals during reassessment)</u></p> <p><u>In section 64, replace “a decision to reassess” with “an application to reassess”.</u></p> | | |
| <p>25 Section 65 amended (No compensation following reassessment)</p> | | |
| <p>(1)</p> <p>(2)</p> | <p>In section 65, replace “section 63, 63A, or 63C” with “section 63, 63A, 63C, or 63D, or a restriction is imposed under section 64A,”.</p> <p>After section 65(e), insert:</p> <p>(f) imposes a restriction under section 64A.</p> | <p>30</p> |

- 26 Section 68 amended (Minister’s power to call in applications with significant effects)**
In section 68(1A), replace “the application is one referred to in section 53” with “the application is one to which **section 53(4)** applies”.
- 27 Section 109 amended (Offences)** 5
After section 109(1)(e)(vi), insert:
(vii) any restriction imposed on the use of a hazardous substance under **section 64A**; or
- 28 Section 114 amended (Penalties)**
(1) In section 114(1), replace “paragraph (e)”, with “paragraph (da) or paragraph (e)(i) to (vi)”. 10
(2) After section 114(1), insert:
(1A) Every person who commits an offence against section **109(1)(e)(vii)** is liable on conviction,—
(a) in the case of a natural person, to a fine not exceeding \$50,000; 15
(b) in the case of a person other than a natural person, to a fine not exceeding \$100,000.
- 29 Section 137 amended (Emergency powers)**
(1) In section 137(1)(a), replace “section 103 or section 119” with “section 103, 103A, or 119”. 20
(2) In section 137(1)(b), after “section 103”, insert “or 103A”.
- 30 Schedule 7 amended**
(1) Replace the Schedule 7 heading with:
Schedule 7
Transitional, savings, and related provisions 25
s 3A
(2) In Schedule 7, before clause 1, insert:
Part 1
Provisions relating to Hazardous Substances and New Organisms
Amendment Act 2015 30
(3) In Schedule 7,—
(a) insert the Part set out in **the Schedule** of this Act as the last Part; and
(b) make all necessary consequential amendments.

- (4) In Schedule 7, repeal clause 9.

Schedule
New Part 2 inserted into Schedule 7

s 30

Part 2		
	Provisions relating to Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Act 2021	5
10	Interpretation	
	In this Part, commencement date means the day on which this Part comes into force.	
11	Application of requirements in section 53AA	10
	Section 53AA(2) to (6) applies only in respect of applications for reassessment lodged on or after the commencement date.	
12	Pre-enactment action relating to notice made under section 76E	
	Subsections (2) and (3) of section 76E are satisfied in relation to a notice if the Authority took action of the kind described in those subsections before their commencement (including before their enactment) for the purpose of facilitating the issue of the notice.	15
13	Penalty in respect of section 109(1)(da)	
	A person is not liable to the penalty under section 114(1) in respect of an offence committed against section 109(1)(da) before the commencement date.	20

Legislative history

14 July 2021	Introduction (Bill 54–1)
10 August 2021	First reading and referral to Environment Committee