



Hazardous Substances and New Organisms (Personnel Qualifications) Regulations 2001

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 28th day of May 2001

Present:

Her Excellency the Governor-General in Council

Pursuant to sections 76 and 140 of the Hazardous Substances and New Organisms Act 1996, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council (given on the recommendation of the Minister for the Environment made in compliance with section 141(1) of that Act), makes the following regulations.

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Regulations

1 Title

These regulations are the Hazardous Substances and New Organisms (Personnel Qualifications) Regulations 2001.

2 Commencement

These regulations come into force on 2 July 2001.

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the Hazardous Substances and New Organisms Act 1996

approved handler means a person who holds a current test certificate certifying that the person has met the requirements of these regulations in relation to an approved handler for 1 or more hazard classifications or hazardous substances

average eyesight has the same meaning as in regulation 3 of the Hazardous Substances (Identification) Regulations 2001

electro-explosive device has the same meaning as in Part 3 of the Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001

emergency response plan means an emergency response plan prescribed under the Hazardous Substances (Emergency Management) Regulations 2001

test certifier means a person who has a current approval as such under section 84 of the Act

tracked substance has the same meaning as in the Hazardous Substances (Tracking) Regulations 2001.

Approved handlers

4 Test certificates for approved handlers

(1) A test certificate as an approved handler must be issued on the condition that it applies only in respect of particular phases of the lifecycles of—

(a) a hazardous substance, or combination of hazardous substances; or

(b) hazardous substances with 1 or more hazard classifications—

as specified in the certificate.

(2) A test certificate as an approved handler must state the name of the approved handler, and his or her residential and work

contact information (such as a street address and telephone number).

- (3) A test certificate as an approved handler remains valid for a period of 5 years from the date of issue, unless regulation 6 applies in which case it remains valid for 2 years from the date of issue.
- (4) Before issuing a test certificate as an approved handler, the test certifier must be satisfied that the handler meets the qualifications specified in regulation 5.
- (5) Before renewing an existing test certificate as an approved handler, the test certifier must be satisfied that the handler meets the qualifications specified in regulation 5 in respect of any changes to working practices, regulations, or codes of practice which have occurred since the previous certificate was issued.

5 Qualifications for approved handlers

- (1) Before being appointed as an approved handler, a person must know and be able to describe the following matters:
 - (a) the hazard classifications of those hazardous substances for which he or she is to be an approved handler:
 - (b) the adverse effects that could be caused by each of those substances:
 - (c) the controls that are imposed under the Act in respect of those substances:
 - (d) his or her obligations and liabilities under the Act as an approved handler, including—
 - (i) the purpose and principles of the Act; and
 - (ii) the offence and defence provisions of the Act; and
 - (iii) the penalties and liabilities imposed by the Act; and
 - (iv) the effect of a compliance order:
 - (e) which regulations apply in respect of those substances, and where those regulations can be obtained:
 - (f) any conditions of his or her test certificate as an approved handler:
 - (g) the content of each code of practice approved by the Authority in relation to any of those substances:
 - (h) the precautions required to prevent injury to a person or damage to the environment by any of those substances:

- (i) the procedures to adopt in an emergency involving those substances.
- (2) The person must also know and be able to demonstrate a working knowledge of the operating equipment (including protective clothing and equipment) necessary to manage those hazardous substances for which he or she is to be an approved handler.
- (3) A written record that—
 - (a) is signed by the provider of a course of instruction or a work supervisor; and
 - (b) describes the method used to assess a person's knowledge and practical skills and the results of that assessment—is sufficient evidence on which a test certifier may decide whether or not to issue a test certificate as an approved handler to that person.

6 Transitional qualification for approved handlers

- (1) Regulation 5 does not apply in respect of, and a test certificate as an approved handler may be issued to, any person who establishes that he or she has, during the whole of any period referred to in subclause (2), been handling the hazardous substance concerned, or any other substance with similar hazardous properties, in the relevant phase of its lifecycle under 1 or more of the following Acts:
 - (a) Animal Remedies Act 1967:
 - (b) Dangerous Goods Act 1974:
 - (c) Explosives Act 1957:
 - (d) Gas Act 1992:
 - (e) Health Act 1956:
 - (f) Health and Safety in Employment Act 1992:
 - (g) Land Transport Act 1998:
 - (h) Pesticides Act 1979:
 - (i) Toxic Substances Act 1979.
- (2) For the purposes of subclause (1), a **period** is any consecutive 2-year period commencing on or after the date that is 2 years before the commencement of these regulations and ending on or before the date that is 3 years after the commencement of these regulations.

Hazardous substances enforcement officers

7 Qualifications for hazardous substances enforcement officers

- (1) Before being appointed as an enforcement officer in relation to hazardous substances, a person must know and be able to describe the following matters:
 - (a) the hazard classifications of those hazardous substances to which his or her functions relate;
 - (b) the adverse effects that could be caused by those substances;
 - (c) the controls that could be imposed on an approval for any classification of hazardous substance, if the person is to be appointed to enforce the provisions of the Act in relation to that classification of substance;
 - (d) the provisions of the Act that are of relevance to enforcement officers, including—
 - (i) the purpose and principles of the Act; and
 - (ii) the offence provisions of the Act, and the defences available to persons charged with an offence under the Act; and
 - (iii) the penalties and liabilities imposed by the Act; and
 - (iv) the procedures for serving a compliance order; and
 - (v) the procedures under the Act for gathering evidence; and
 - (vi) the powers of entry for inspection and the procedures to be followed when exercising those powers; and
 - (vii) the circumstances in which a search may be conducted, and the procedures for conducting a search; and
 - (viii) the procedures for declaring an emergency, and the extent of emergency powers;
 - (e) any transitional provisions of or under the Act that are applicable to those substances;
 - (f) the scope of approved codes of practice that relate to those substances.
- (2) The person must also know, and be able to describe and demonstrate, the common procedures and equipment used to

meet the controls imposed in respect of those hazardous substances and situations to which his or her functions relate, the likely situations and circumstances in which those procedures and equipment may fail to comply with those controls, and the steps that should be taken to ensure compliance.

- (3) The person must also have had at least 6 months' practical experience in relation to hazardous substances to which his or her functions will relate, under the guidance of an enforcement officer.

8 Transitional qualification for hazardous substances enforcement officers

- (1) During the period of 2 years from the commencement of these regulations, regulation 7 does not apply in respect of—
 - (a) any person who, during the 12 months before the commencement of these regulations, has been continually undertaking enforcement duties under 1 or more of the Animal Remedies Act 1967, the Civil Aviation Act 1990, the Dangerous Goods Act 1974, the Explosives Act 1957, the Gas Act 1992, the Health Act 1956, the Land Transport Act 1998, the Maritime Transport Act 1994, the Pesticides Act 1979, the Resource Management Act 1991, and the Toxic Substances Act 1979; or
 - (b) any person warranted as an inspector under the Health and Safety in Employment Act 1992 before the commencement of these regulations and who, in the opinion of the Secretary of Labour, has demonstrated reasonable knowledge of the management of hazardous substances.
- (2) A person to whom subclause (1) applies is qualified for appointment, and may be appointed, as an enforcement officer in relation to any hazardous substance for which he or she has inspection or enforcement experience.

New organisms enforcement officers

9 Qualifications for new organisms enforcement officers

- (1) Before being appointed as an enforcement officer in relation to new organisms, a person must know and be able to describe the following matters:

- (a) the procedures necessary to determine the status of an organism under section 26 of the Act:
 - (b) the controls that may be imposed on an approval for any category of new organism under section 45 of the Act in relation to the matters specified in the Third Schedule of the Act, if the person is to be appointed to enforce the provisions of the Act in relation to that category of organism:
 - (c) the circumstances in which the procedures and equipment described in subclause (2) are likely to or may fail to comply with the controls imposed, and the steps that should be taken to re-establish compliance:
 - (d) the significance and effects of the inclusion of an organism as a prohibited new organism in the Second Schedule of the Act:
 - (e) the relationship between the Act and the Biosecurity Act 1993:
 - (f) the provisions of the Act that are of relevance to enforcement officers, including—
 - (i) the purpose and principles of the Act; and
 - (ii) the offence provisions of the Act, and the defences available to persons charged with an offence under the Act; and
 - (iii) the penalties and liabilities imposed by the Act; and
 - (iv) the procedure for serving a compliance order; and
 - (v) the procedures under the Act for gathering evidence; and
 - (vi) the powers of entry or inspection and the procedures to be followed when exercising those powers; and
 - (vii) the circumstances in which a search may be conducted, and the procedures for conducting a search; and
 - (viii) the procedures for declaring an emergency, and the extent of emergency powers.
- (2) The person must also know, and be able to describe and demonstrate, the common procedures and equipment used to meet the controls imposed for any new organism in relation to the matters specified in the Third Schedule of the Act, if the

person is to be appointed to enforce the provisions of the Act in relation to that category of organism.

- (3) The person must also—
- (a) know and be able to determine the nature of an organism and whether or not it is a new organism; or
 - (b) if unable to do so, know the procedures that will enable the organism's nature, and whether or not it is a new organism, to be determined.

10 Transitional qualification for new organisms enforcement officers

- (1) Regulation 9 does not apply to an inspector appointed under the Biosecurity Act 1993 who has been continually undertaking inspection or enforcement duties under that Act before the date on which the regulations revoked by regulation 12 came into force.
- (2) A person to whom subclause (1) applies is qualified for and may be appointed as an enforcement officer in relation to any new organism for which he or she has inspection or enforcement experience.

Test certifiers

11 Qualifications for test certifiers

- (1) Before being appointed as a test certifier, a person must know and be able to describe the following matters:
- (a) the hazard classifications of any hazardous substances in relation to which he or she issues test certificates;
 - (b) the adverse effects that could be caused by each of those substances;
 - (c) the controls that are imposed under the Act on those substances;
 - (d) his or her obligations and liabilities under the Act, including—
 - (i) the purpose and principles of the Act; and
 - (ii) the offence and defence provisions of the Act; and
 - (iii) the penalties and liabilities imposed by the Act; and
 - (iv) the effect of a compliance order; and

- (v) the provisions applicable to test certificates:
 - (e) the requirements or conditions imposed in accordance with Part 3 of the Third Schedule of the Act for which the test certifier may issue a test certificate:
 - (f) any codes of practice relating to any hazardous substances for which he or she issues test certificates.
- (2) The person must also know and be able to describe and demonstrate—
- (a) the use of any testing equipment or procedures (including normal operations, calibration, and record keeping) required for the issue of test certificates; and
 - (b) the use of commonly used operating equipment and systems (including protective clothing and equipment) that is necessary to meet any requirement for which a test certificate is to be issued.
- (3) The person must also have either—
- (a) a minimum of 2 years practical experience of actively undertaking testing, inspection, enforcement, or handling duties, under 1 or more of the Animal Remedies Act 1967, the Dangerous Goods Act 1974, the Explosives Act 1957, the Health and Safety in Employment Act 1992, the Pesticides Act 1979, the Toxic Substances Act 1979, and the Land Transport Act 1998 in respect of—
 - (i) substances or equipment regulated under the Hazardous Substances and New Organisms Act 1996; or
 - (ii) the operation of systems or equipment for which the test certifier may issue test certificates; or
 - (b) a minimum period of between 3 months and 24 months (to be specified by the Authority) of practical experience under the supervision of a test certifier covering the types of equipment or qualifications or situations for which the person will issue test certificates.
- (4) In deciding whether or not to approve a person as a test certifier, the Authority may regard as sufficient evidence a written record,—
- (a) in the case of the requirements specified in subclause (1) or (2), signed by a person who has trained or assessed the person and describing the method of

- assessment of the knowledge and practical skills of the person, and the results of that assessment; or
- (b) in the case of the requirements specified in subclause (3)(a), signed by the person's supervisor or an enforcement officer, or included in a statutory declaration by the person describing the person's practical experience; or
- (c) in the case of the requirements specified in subclause (3)(b), signed by the person's supervisor describing the person's practical experience.

Miscellaneous

12 Revocation

The Hazardous Substances and New Organisms (Qualifications for Enforcement Officers) Regulations 2000 (SR 2000/261) are revoked.

Martin Bell,
Acting for Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations are made under the Hazardous Substances and New Organisms Act 1996 and come into force on 2 July 2001.

The regulations prescribe the knowledge and practical skills that approved handlers, enforcement officers, and test certifiers must have.

The regulations also state requirements relating to test certificates for approved handlers.

The regulations replace, and revoke, the Hazardous Substances and New Organisms (Qualifications for Enforcement Officers) Regulations 2000.

**Hazardous Substances and New
Organisms (Personnel Qualifications)
Regulations 2001**

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These regulations are administered in the Ministry for the Environment.
