



## **Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011**

Anand Satyanand, Governor-General

### **Order in Council**

At Wellington this 18th day of July 2011

Present:

His Excellency the Governor-General in Council

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

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## **Order**

- 1 Title**  
This order is the Hazardous Substances and New Organisms (Schedules 1AA and 2A) Order 2011.
  - 2 Commencement**  
This order comes into force on the 28th day after its notification in the *Gazette*.
  - 3 Schedule 1AA of Hazardous Substances and New Organisms Act 1996 amended**  
Schedule 1AA of the Hazardous Substances and New Organisms Act 1996 is amended in the manner set out in Schedule 1 of this order.
  - 4 Schedule 2A of Hazardous Substances and New Organisms Act 1996 amended**  
Schedule 2A of the Hazardous Substances and New Organisms Act 1996 is amended by inserting in their appropriate alphabetical order the items set out in Schedule 2 of this order.
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**Schedule 1**  
**Amendments to Schedule 1AA of**  
**Hazardous Substances and New**  
**Organisms Act 1996**

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**Annex A: table in Part I**

Insert in their appropriate alphabetical order:

<b>Chemical</b>	<b>Activity</b>	<b>Specific exemption</b>
Alpha hexachlorocyclohexane* CAS No: 319-84-6	Production Use	None None
Beta hexachlorocyclohexane* CAS No: 319-85-7	Production Use	None None
Chlordecone* CAS No: 143-50-0	Production Use	None None
Hexabromobiphenyl* CAS No: 36355-01-8	Production Use	None None
Hexabromodiphenyl ether* and heptabromodiphenyl ether*	Production Use	None Articles in accordance with the provisions of Part IV of this Annex
Lindane* CAS No: 58-89-9	Production Use	None Human health pharmaceutical for control of head lice and scabies as second line treat- ment
Pentachlorobenzene* CAS No: 608-93-5	Production Use	None None
Technical endosulfan* CAS No: 115-29-7 and its re- lated isomers* CAS No: 959- 98-8 and CAS No: 33213-65-9	Production Use	As allowed for the parties listed in the Register of Spe- cific Exemptions Crop-pest complexes as listed in accordance with the provi- sions of Part VI of this Annex
Tetrabromodiphenyl ether* and pentabromodiphenyl ether*	Production Use	None Articles in accordance with the provisions of Part IV of this Annex

**Annex A: note (iv) to table in Part I**

Omit and substitute:

“(iv) All the specific exemptions in this Annex may be exercised by Parties that have registered exemptions in respect of them in accordance

**Annex A: note (iv) to table in Part I—continued**

with Article 4 with the exception of the use of polychlorinated biphenyls in articles in use in accordance with the provisions of Part II, and the use of hexabromodiphenyl ether and heptabromodiphenyl ether in accordance with the provisions of Part IV, and the use of tetrabromodiphenyl ether and pentabromodiphenyl ether in accordance with the provisions of Part V of this Annex, which may be exercised by all Parties;

- “(v) Technical endosulfan (CAS No:115-29-7), its related isomers (CAS No: 959-98-8 and CAS No: 33213-65-9) and endosulfan sulfate (CAS No: 1031-07-8) were assessed and identified as persistent organic pollutants.”

**Annex A: new Parts III, IV, and V**

Add:

**Part III****“Definitions**

“For the purpose of this Annex:

- “(a) ‘Hexabromodiphenyl ether and heptabromodiphenyl ether’ mean 2,2',4,4',5,5'-hexabromodiphenyl ether (BDE-153, CAS No: 68631-49-2), 2,2',4,4',5,6'-hexabromodiphenyl ether (BDE-154, CAS No: 207122-15-4), 2,2',3,3',4,5',6-heptabromodiphenyl ether (BDE-175, CAS No: 446255-22-7), 2,2',3,4,4',5',6-heptabromodiphenyl ether (BDE-183, CAS No: 207122-16-5) and other hexa- and heptabromodiphenyl ethers present in commercial octabromodiphenyl ether.
- “(b) ‘Tetrabromodiphenyl ether and pentabromodiphenyl ether’ means 2,2',4,4'-tetrabromodiphenyl ether (BDE-47, CAS No: 5436-43-1) and 2,2',4,4',5-pentabromodiphenyl ether (BDE-99, CAS No: 60348-60-9) and other tetra- and pentabromodiphenyl ethers present in commercial pentabromodiphenyl ether.

**Annex A: new Parts III, IV, and V—continued****“Part IV****“Hexabromodiphenyl ether and  
heptabromodiphenyl ether**

- “1. A Party may allow recycling of articles that contain or may contain hexabromodiphenyl ether and heptabromodiphenyl ether, and the use and final disposal of articles manufactured from recycled materials that contain or may contain hexabromodiphenyl ether and heptabromodiphenyl ether, provided that:
- “(a) The recycling and final disposal is carried out in an environmentally sound manner and does not lead to recovery of hexabromodiphenyl ether and heptabromodiphenyl ether for the purpose of their reuse;
  - “(b) The Party takes steps to prevent exports of such articles that contain levels/concentrations of hexabromodiphenyl ether and heptabromodiphenyl ether exceeding those permitted for the sale, use, import or manufacture of those articles within the territory of the Party; and
  - “(c) The Party has notified the Secretariat of its intention to make use of this exemption.
- “2. At its sixth ordinary meeting and at every second ordinary meeting thereafter the Conference of the Parties shall evaluate the progress that Parties have made towards achieving their ultimate objective of elimination of hexabromodiphenyl ether and heptabromodiphenyl ether contained in articles and review the continued need for this specific exemption. This specific exemption shall in any case expire at the latest in 2030.

**“Part V****“Tetrabromodiphenyl ether and  
pentabromodiphenyl ether**

- “1. A Party may allow recycling of articles that contain or may contain tetrabromodiphenyl ether and pentabromodiphenyl ether, and the use and final disposal of articles manufactured

**Annex A: new Parts III, IV, and V—continued****Part V—continued**

from recycled materials that contain or may contain tetrabromodiphenyl ether and pentabromodiphenyl ether, provided that:

- “(a) The recycling and final disposal is carried out in an environmentally sound manner and does not lead to recovery of tetrabromodiphenyl ether and pentabromodiphenyl ether for the purpose of their reuse;
- “(b) The Party does not allow this exemption to lead to the export of articles containing levels/concentrations of tetrabromodiphenyl ether and pentabromodiphenyl ether that exceed those permitted to be sold within the territory of the Party; and
- “(c) The Party has notified the Secretariat of its intention to make use of this exemption.

- “2. At its sixth ordinary meeting and at every second ordinary meeting thereafter the Conference of the Parties shall evaluate the progress that Parties have made towards achieving their ultimate objective of elimination of tetrabromodiphenyl ether and pentabromodiphenyl ether contained in articles and review the continued need for this specific exemption. This specific exemption shall in any case expire at the latest in 2030.”

**“Part VI****“Technical endosulfan and its related isomers (endosulfan)**

“The production and use of endosulfan shall be eliminated except for parties that have notified the Secretariat of their intention to produce and/or use it in accordance with Article 4 of the Convention. Specific exemptions may be available for the use of endosulfan for the following crop-pest complexes:

<b>Crop</b>	<b>Pest</b>
Cotton	Cotton bollworms, pink bollworm, aphids, jassids, whiteflies, thrips, leafroller
Jute	Bihar hairy caterpillar, yellow mite

**Annex A: new Parts III, IV, and V—continued**

## Part VI—continued

<b>Crop</b>	<b>Pest</b>
Coffee	Berry borer, stem borer
Tea	Aphids, caterpillars, tea mosquito bugs, mealybugs, scale insects, thrips, flushworm, smaller green leaf hopper, tea geometrid
Tobacco	Oriental tobacco bud worm, aphids
Cow peas, beans, tomato	Whiteflies, aphids, leaf miner
Okra, tomato, eggplant	Fruit and shoot borer, diamondback moth, aphids, jassids
Onion, potato, chillies	Aphids, jassids
Apple	Yellow aphids
Mango	Hopper, fruit fly
Gram, arhar	Aphids, caterpillars, pod borer, pea semilooper
Maize	Aphids, stem borer, pink borer
Paddy/rice	White jassids, stem borer, gall midge, rice hispa
Wheat	Aphids, termites, pink borer
Groundnuts	Aphids
Mustard	Aphids, gall midge

**Annex B: table in Part I**

Omit and substitute:

<b>Chemical</b>	<b>Activity</b>	<b>Acceptable purpose or specific exemption</b>
DDT (1,1,1-trichloro-2,2-bis(4-chlorophenyl)ethane) CAS NO: 50-29-3	Production	<u>Acceptable purpose:</u> Disease vector control use in accordance with Part II of this Annex <u>Specific exemption:</u> Intermediate in production of dicofol Intermediate
	Use	<u>Acceptable purpose:</u> Disease vector control in accordance with Part II of this Annex

**Annex B: table in Part I—continued**

Chemical	Activity	Acceptable purpose or specific exemption
Perfluorooctane sulfonic acid (CAS No: 1763-23-1), its salts <sup>a</sup> and perfluorooctane sulfonyl fluoride (CAS No: 307-35-7)	Production	<u>Specific exemption:</u> Production of dicofol Intermediate  <u>Acceptable purpose:</u> In accordance with Part III of this Annex, production of other chemicals to be used solely for the uses below. Production for uses listed below.
<sup>a</sup> For example: potassium perfluorooctane sulfonate (CAS No: 2795-39-3); lithium perfluorooctane sulfonate (CAS No: 29457-72-5); ammonium perfluorooctane sulfonate (CAS No: 29081-56-9); diethanolammonium perfluorooctane sulfonate (CAS No: 70225-14-8); tetraethylammonium perfluorooctane sulfonate (CAS No: 56773-42-3); dicyldimethylammonium perfluorooctane sulfonate (CAS No: 251099-16-8)	Use	<u>Specific exemption:</u> As allowed for Parties listed in the Register  <u>Acceptable purpose:</u> In accordance with Part III of this Annex for the following acceptable purposes, or as an intermediate in the production of chemicals with the following acceptable purposes: <ul style="list-style-type: none"> <li>• Photo-imaging</li> <li>• Photo-resist and anti-reflective coatings for semi-conductors</li> <li>• Etching agent for compound semi-conductors and ceramic filters</li> <li>• Aviation hydraulic fluids</li> <li>• Metal plating (hard metal plating) only in closed-loop systems</li> <li>• Certain medical devices (such as ethylene tetrafluoroethylene copolymer (ETFE) layers and radio-opaque ETFE production, in-vitro diagnostic medical devices, and CCD colour filters)</li> <li>• Fire-fighting foam</li> <li>• Insect baits for control of leaf-cutting ants from <i>Atta spp.</i> and <i>Acromyrmex spp.</i></li> </ul>



**Annex B: table in Part I—continued**

Chemical	Activity	Acceptable purpose or specific exemption
		<p data-bbox="866 607 1070 636"><u>Specific exemption:</u></p> <p data-bbox="866 636 1222 745">For the following specific uses, or as an intermediate in the production of chemicals with the following specific uses:</p> <ul data-bbox="866 752 1222 1476" style="list-style-type: none"> <li data-bbox="866 752 1222 862">• Photo masks in the semiconductor and liquid crystal display (LCD) industries</li> <li data-bbox="866 869 1222 922">• Metal plating (hard metal plating)</li> <li data-bbox="866 929 1222 983">• Metal plating (decorative plating)</li> <li data-bbox="866 990 1222 1099">• Electric and electronic parts for some colour printers and colour copy machines</li> <li data-bbox="866 1106 1222 1189">• Insecticides for control of red imported fire ants and termites</li> <li data-bbox="866 1196 1222 1249">• Chemically driven oil production</li> <li data-bbox="866 1256 1027 1285">• Carpets</li> <li data-bbox="866 1292 1150 1321">• Leather and apparel</li> <li data-bbox="866 1328 1187 1357">• Textiles and upholstery</li> <li data-bbox="866 1364 1161 1393">• Paper and packaging</li> <li data-bbox="866 1400 1222 1453">• Coatings and coating additives</li> <li data-bbox="866 1460 1150 1489">• Rubber and plastics</li> </ul>

**Annex B: new Part III**

Add:

## Part III

“Perfluorooctane sulfonic acid, its salts and  
perfluorooctane sulfonyl fluoride

- “1. The production and use of perfluorooctane sulfonic acid (PFOS), its salts and perfluorooctane sulfonyl fluoride

**Annex B: new Part III**—*continued*Part III—*continued*

(PFOSF) shall be eliminated by all Parties except as provided in Part I of this Annex for Parties that have notified the Secretariat of their intention to produce and/or use them for acceptable purposes. A Register of Acceptable Purposes is hereby established and shall be available to the public. The Secretariat shall maintain the Register of Acceptable Purposes. In the event that a Party not listed in the Register determines that it requires the use of PFOS, its salts or PFOSF for the acceptable purposes listed in Part I of this Annex it shall notify the Secretariat as soon as possible in order to have its name added forthwith to the Register.

- “2. Parties that produce and/or use these chemicals shall take into account, as appropriate, guidance such as that given in the relevant parts of the general guidance on best available techniques and best environmental practices given in Part V of Annex C of the Convention.
- “3. Every four years, each Party that uses and/or produces these chemicals shall report on progress made to eliminate PFOS, its salts and PFOSF and submit information on such progress to the Conference of the Parties pursuant to and in the process of reporting under Article 15 of the Convention.
- “4. With the goal of reducing and ultimately eliminating the production and/or use of these chemicals, the Conference of the Parties shall encourage:
- “(a) Each Party using these chemicals to take action to phase out uses when suitable alternative substances or methods are available;
  - “(b) Each Party using and/or producing these chemicals to develop and implement an action plan as part of the implementation plan specified in Article 7 of the Convention;
  - “(c) The Parties, within their capabilities, to promote research on and development of safe alternative chemical

**Annex B: new Part III**—*continued*Part III—*continued*

and non-chemical products and processes, methods and strategies for Parties using these chemicals, relevant to the conditions of those Parties. Factors to be promoted when considering alternatives or combinations of alternatives shall include the human health risks and environmental implications of such alternatives.

- “5. The Conference of the Parties shall evaluate the continued need for these chemicals for the various acceptable purposes and specific exemptions on the basis of available scientific, technical, environmental and economic information, including:
- “(a) Information provided in the reports described in paragraph 3;
  - “(b) Information on the production and use of these chemicals;
  - “(c) Information on the availability, suitability and implementation of alternatives to these chemicals;
  - “(d) Information on progress in building the capacity of countries to transfer safely to reliance on such alternatives.
- “6. The evaluation referred to in the preceding paragraph shall take place no later than in 2015 and every four years thereafter, in conjunction with a regular meeting of the Conference of the Parties.
- “7. Due to the complexity of the use and the many sectors of society involved in the use of these chemicals, there might be other uses of these chemicals of which countries are not presently aware. Parties which become aware of other uses are encouraged to inform the Secretariat as soon as possible.
- “8. A Party may, at any time, withdraw its name from the Register of acceptable purposes upon written notification to the Secre-

**Annex B: new Part III**—*continued*

Part III—*continued*

tariat. The withdrawal shall take effect on the date specified in the notification.

- “9. The provisions of note (iii) of Part I of Annex B shall not apply to these chemicals.”

**Annex C: table in Part I**

Insert after item relating to Hexachlorobenzene (HCB) (CAS No: 118-74-1): “Pentachlorobenzene (PeCB) (CAS No: 608-93-5)”.

**Annex C: Part II**

Omit “Polychlorinated dibenzo-p-dioxins and dibenzofurans, hexachlorobenzene and polychlorinated biphenyls” and substitute: “Hexachlorobenzene, pentachlorobenzene, polychlorinated biphenyls, and polychlorinated dibenzo-p-dioxins and dibenzofurans”.

**Annex C: Part III**

Omit “Polychlorinated dibenzo-p-dioxins and dibenzofurans, hexachlorobenzene and polychlorinated biphenyls” and substitute: “Hexachlorobenzene, pentachlorobenzene, polychlorinated biphenyls, and polychlorinated dibenzo-p-dioxins and dibenzofurans”.

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## Schedule 2

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Items to be inserted in Schedule 2A  
of Hazardous Substances and New  
Organisms Act 1996

Substance	Use or storage	Manufacture	Expiry of permitted use or storage
Alpha hexachlorocyclohexane CAS No: 319-84-6			
Beta hexachlorocyclohexane CAS No: 319-85-7			
Chlordecone CAS No: 143-50-0			
Hexabromobiphenyl CAS No: 36355-01-8			
Hexabromodiphenyl ether and heptabromodiphenyl ether			
Lindane CAS No: 58-89-9	In accordance with an exemption registered under article 4 of the Stockholm Convention:		25 August 2015
	Human health pharmaceutical for control of head lice and scabies as second line treatment		
Pentachlorobenzene CAS No: 608-93-5			
Perfluorooctane sulfonic acid (CAS No: 1763-23-1), its salts and perfluorooctane sulfonyl fluoride (CAS No: 307-35-7)			
Technical endosulfan (CAS No: 115-29-7) and its related isomers (CAS No: 959-98-8 and CAS No: 33213-65-9)			
Tetrabromodiphenyl ether and pentabromodiphenyl ether			

Rebecca Kitteridge,  
Clerk of the Executive Council.

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### **Explanatory note**

*This note is not part of the order, but is intended to indicate its general effect.*

This order, which comes into force on the 28th day after its notification in the *Gazette*, amends Schedules 1AA and 2A of the Hazardous Substances and New Organisms Act 1996 (the **Act**).

Schedule 1AA of the Act sets out the text of the Stockholm Convention on Persistent Organic Pollutants (the **Convention**). *Clause 3* amends the schedule by inserting 9 new chemicals into the table in Annex A and 1 new chemical into the table in Annex B, together with provisions that apply to those chemicals. It also inserts 1 new chemical into the table in Annex C. Annex A lists chemicals that are to be prohibited and progressively eliminated. Annex B lists chemicals whose production and use are to be restricted. Annex C lists chemicals that are produced unintentionally and which are to be reduced and eliminated. The amendments are needed to bring the text of the Convention in Schedule 1AA of the Act up to date.

Schedule 2A of the Act lists chemicals (persistent organic pollutants) that may not be imported, used, stored, or manufactured except in limited circumstances specified in the Act or as specified in the schedule in relation to a particular chemical. *Clause 4* inserts 10 new chemicals into Schedule 2A, giving effect to the amendments to the Convention.

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 21 July 2011.  
This order is administered by the Ministry for the Environment.

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