



**THE IMPORT CONTROL (WASTES) CONDITIONAL  
PROHIBITION ORDER 1994**

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CATHERINE A. TIZARD, Governor-General

**ORDER IN COUNCIL**

At Wellington this 12th day of December 1994

Present:

HER EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 3 of the Import Control Act 1988, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

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**ORDER**

**1. Title and commencement**—(1) This order may be cited as the Import Control (Wastes) Conditional Prohibition Order 1994.

(2) This order shall come into force on the 28th day of February 1995.

**2. Interpretation**—In this order, unless the context otherwise requires,—

“Basel Convention” means the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, adopted at Basel on the 22nd day of March 1989:

“Hazardous waste” means any waste that—

(a) Either—

(i) Falls into one of the categories of waste specified in Part I of the First Schedule to this order; or

(ii) Has as a constituent any substance specified in Part II of the First Schedule to this order; and

(b) Has any of the hazardous characteristics specified in the Second Schedule to this order:

“Other waste” means—

(a) Any waste collected from households:

(b) Any residue from the incineration of household wastes:

“Waste” means any substance or object—

(a) That is intended to be disposed of by any of the methods specified in the Third Schedule to this order; or

(b) That is required, by any law of New Zealand, to be disposed of by any of the methods specified in the Third Schedule to this order.

**3. Conditional prohibition on importation of wastes**—(1) Subject to subclause (2) of this clause, the importation into New Zealand of the following goods is hereby prohibited:

(a) Any hazardous waste that is exported from any country:

(b) Any other waste that is exported from any country.

(2) Notwithstanding subclause (1) of this clause, goods to which that subclause applies (being hazardous waste or other waste specified in subclause (3) of this clause) may be imported into New Zealand under the authority of a permit to be granted by the Minister of Commerce upon or subject to such terms or conditions (if any) as may be imposed by the Minister.

(3) The hazardous waste or other waste that may be imported into New Zealand under the authority of a permit granted under subclause (2) of this clause is any hazardous waste or other waste—

(a) Either—

(i) That is exported from a country that does not have the technical capacity, or the necessary facilities or capacity, or suitable disposal sites, to dispose of the waste in an environmentally sound and efficient manner, and the waste is able to be so disposed of in New Zealand; or

(ii) That is required as a raw material for any recycling or recovery industry in New Zealand; or

(iii) Whose importation into New Zealand is in accordance with any criteria decided by the parties to the Basel Convention; and

(b) Whose importation into New Zealand is otherwise in conformity with New Zealand’s obligations under the Basel Convention.

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SCHEDULES

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FIRST SCHEDULE

PART I

WASTE STREAMS

- Clinical waste from medical care in hospitals, medical centres, or clinics.  
 Waste from the production or preparation of pharmaceutical products.  
 Waste pharmaceuticals, drugs, and medicines.  
 Waste from the production, formulation, or use of biocides or phytopharmaceuticals.  
 Waste from the manufacture, formulation, or use of wood preserving chemicals.  
 Waste from the production, formulation, or use of organic solvents.  
 Waste from heat treatment or tempering operations and containing cyanides.  
 Waste mineral oils unfit for their originally intended use.  
 Waste mixtures of—  
     (i) Oil and water;  
     (ii) Hydrocarbon and water.  
 Waste substances or articles containing, or contaminated with, one or more of the following substances:  
     (i) Polychlorinated biphenyls (PCBs);  
     (ii) Polychlorinated terphenyls (PCTs);  
     (iii) Polybrominated biphenyls (PBBs).  
 Waste tarry residues arising from refining or distillation, or any pyrolytic treatment.  
 Waste from the production, formulation, or use of inks, dyes, pigments, paints, lacquers, or varnish.  
 Waste from the production, formulation, or use of resins, latex, plasticizers, or glues or other adhesives.  
 Waste chemical substances—  
     (i) That arise from research and development or teaching activities; and  
     (ii) That are not identified or are new, or both; and  
     (iii) Whose effects on humans or the environment, or both, are not known.  
 Waste from the production, formulation, or use of photographic chemicals or photographic processing materials.  
 Waste resulting from the surface treatment of metals or plastics.  
 Waste arising from industrial waste disposal operations.

PART II

HAZARDOUS CONSTITUENTS

- Metal carbonyls.  
 Beryllium and beryllium compounds.  
 Hexavalent chromium compounds.  
 Copper compounds.  
 Zinc compounds.  
 Arsenic and arsenic compounds.  
 Selenium and selenium compounds.

FIRST SCHEDULE—*continued*PART II—*continued*HAZARDOUS CONSTITUENTS—*continued*

- Cadmium and cadmium compounds.
  - Antimony and antimony compounds.
  - Tellurium and tellurium compounds.
  - Mercury and mercury compounds.
  - Thallium and thallium compounds.
  - Lead and lead compounds.
  - Inorganic fluorine compounds (excluding calcium fluoride).
  - Inorganic cyanides.
  - Acidic solutions and acids in solid form.
  - Basic solutions and bases in solid form.
  - Asbestos (dust or fibres).
  - Organic phosphorous compounds.
  - Organic cyanides.
  - Phenols and phenol compounds (including chlorophenols).
  - Ethers.
  - Halogenated organic solvents.
  - Organic solvents (excluding halogenated solvents).
  - Any congener of polychlorinated dibenzo-furan.
  - Any congener of polychlorinated dibenzo-p-dioxin.
  - Organohalogen compounds (other than any substance referred to elsewhere in this Part of this Schedule).
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## SECOND SCHEDULE

## HAZARDOUS CHARACTERISTICS

## PART I

## INTERPRETATION

In this Schedule, “flammable” has the same meaning as the word “inflammable”.

## PART II

## HAZARDOUS CHARACTERISTICS

**1. Explosive characteristics**—A waste has explosive characteristics if—

- (a) That waste is solid or liquid, or contains or is mixed with substances that are solid or liquid; and
- (b) That waste, or any solid or liquid that it contains or that it is mixed with, is capable, by chemical reaction, of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.

**2. Liquids that have flammable characteristics**—A liquid waste has flammable characteristics if that waste—

- (a) Is in liquid form, or is a liquid that contains solids in solution or suspension (including, by way of example only, paints, varnishes, and lacquers); and
- (b) Gives off a flammable vapour at temperatures of not more than 60.5°C (using the closed-cup test), or not more than 65.6°C (using the open-cup test).

**3. Solids that have flammable characteristics**—A solid waste has flammable characteristics if that waste (not being a waste to which clause 1 of this Part of this Schedule applies), under conditions encountered in transport, is readily combustible, or may cause or contribute to fire through friction.

**4. Characteristic of being liable to spontaneous combustion**—A waste has the characteristic of being liable to spontaneous combustion if that waste—

- (a) Is liable to spontaneous heating under normal conditions encountered in transport; or
- (b) Is liable to heating up on contact with air, and, as a result, is liable to catch fire.

**5. Wastes that, in contact with water, emit flammable gases**—A waste has the characteristic of emitting flammable gases in contact with air if that waste, by interaction with water,—

- (a) Is liable to become spontaneously flammable; or
- (b) Is liable to give off flammable gases in dangerous quantities.

**6. Oxidizing characteristics**—A waste has oxidizing characteristics if that waste, while in itself not necessarily combustible, may, generally by yielding oxygen, cause, or contribute to, the combustion of other materials.

SECOND SCHEDULE—*continued*HAZARDOUS CHARACTERISTICS—*continued*PART II—*continued*HAZARDOUS CHARACTERISTICS—*continued*

**7. Characteristic of being an organic peroxide**—(1) A waste that falls into one of the categories of waste specified in Part I of the First Schedule to this order has the characteristic of being an organic peroxide if that waste—

- (a) Contains the bivalent -O-O- structure; and
- (b) Is thermally unstable and may undergo exothermic self-accelerating decomposition.

(2) A waste that has as a constituent any substance specified in Part II of the First Schedule to this order has the characteristic of being an organic peroxide if that waste is thermally unstable and may undergo exothermic self-accelerating decomposition.

**8. Acutely poisonous characteristics**—A waste has the characteristic of being acutely poisonous if that waste—

- (a) Is liable to cause death or serious injury; or
- (b) Is liable to harm human health—  
if swallowed or inhaled, or through skin contact.

**9. Characteristic of being infectious**—A waste has the characteristic of being infectious if—

- (a) That waste contains viable micro organisms, or toxins of such micro organisms; and
- (b) Those micro organisms or those toxins are known to cause, or are suspected of causing, disease in animals or humans.

**10. Corrosive characteristics**—A waste has corrosive characteristics if that waste, by chemical action,—

- (a) Will cause severe damage when in contact with living tissue; or
- (b) In the case of leakage, will materially damage or destroy its means of transport or other goods.

**11. Characteristics that result in the liberation of toxic gases where in contact with air or water**—A waste has the characteristic of resulting in the liberation of toxic gases where in contact with air or water if that waste, by interaction with air or water, is liable to give off toxic gases in dangerous quantities.

**12. Toxic characteristics (delayed or chronic)**—A waste has toxic characteristics if that waste, through inhalation, ingestion, or penetration of the skin, may involve delayed or chronic effects, including carcinogenicity.

**13. Ecotoxic characteristics**—A waste has ecotoxic characteristics if that waste, if released, would or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation, or toxic effects upon biotic systems, or both.

SECOND SCHEDULE—*continued*HAZARDOUS CHARACTERISTICS—*continued*PART II—*continued*HAZARDOUS CHARACTERISTICS—*continued*

**14. Other hazardous characteristics**—A waste has other hazardous characteristics if that waste is capable by any means, after disposal by any of the methods specified in the Third Schedule to this order, of yielding another material (including, by way of example only, leachate) that possesses any of the characteristics specified in any of clauses 1 to 13 of this Part of this Schedule.

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## THIRD SCHEDULE

## METHODS OF DISPOSAL OF WASTES

1. Methods of disposal that do not lead to the possibility of resource recovery, recycling, reclamation, direct re-use, or alternative uses:
  - (a) Deposit into or onto land (including by way of example only, landfill):
  - (b) Land treatment (including, by way of example only, biodegradation of liquid or sludgy discards in soils):
  - (c) Deep injection (including, by way of example only, injection of pumpable discards into wells, salt domes, or naturally occurring repositories):
  - (d) Surface impoundment (including, by way of example only, placement of liquid or sludge discards into pits, ponds, or lagoons):
  - (e) Specially engineered landfill (including, by way of example only, placement into lined discrete cells which are capped and isolated from one another and the environment):
  - (f) Release into a water body (not being sea or an ocean):
  - (g) Release into a sea or an ocean (including sea-bed insertion):
  - (h) Incineration on land:
  - (i) Incineration at sea:
  - (j) Permanent storage (including, by way of example only, emplacement of containers in a mine):
  - (k) Any biological treatment that results in final compounds or mixtures which are discarded by means of any of the methods specified in any of paragraphs (a) to (j) or in paragraph (l) of this clause:
  - (l) Physico chemical treatment that results in final compounds or mixtures that are discarded by means of any of the methods specified in any of paragraphs (a) to (k) of this clause (including, by way of example only, evaporation, drying, calcination, neutralisation, or precipitation):
  - (m) Blending or mixing prior to disposal by any of the methods specified in any of paragraphs (a) to (l) of this clause:
  - (n) Repackaging prior to disposal by any of the methods specified in any of paragraphs (a) to (l) of this clause:
  - (o) Storage pending disposal by any of the methods specified in any of paragraphs (a) to (l) of this clause.
2. Methods of disposal that may lead to resource recovery, recycling, reclamation, direct re-use, or alternative uses, where the waste being disposed of would otherwise have been destined for disposal by any of the methods specified in clause 1 of this Schedule:
  - (a) Use as a fuel (other than in direct incineration) or other means to generate energy:
  - (b) Solvent reclamation or regeneration:
  - (c) Recycling or reclamation of organic substances not used as solvents:
  - (d) Recycling or reclamation of metals and metal compounds:
  - (e) Recycling or reclamation of other inorganic materials:
  - (f) Regeneration of acids or bases:
  - (g) Recovery of components used for pollution abatement:
  - (h) Recovery of components from catalysts:
  - (i) Re-refining of used oil, or other re-uses of previously used oil:



THIRD SCHEDULE—*continued*METHODS OF DISPOSAL OF WASTES—*continued*

- (j) Land treatment resulting in a benefit to agriculture or in ecological improvement:
- (k) Uses of residual materials obtained from any of the methods specified in any of paragraphs (a) to (j) of this clause:
- (l) Exchange of wastes for disposal by any of the methods specified in any of paragraphs (a) to (k) of this clause:
- (m) Accumulation of material intended for disposal by any of the methods specified in any of paragraphs (a) to (l) of this clause.

MARIE SHROFF,  
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 28 February 1995, prohibits the importation into New Zealand of wastes except under the authority of a permit granted by the Minister of Commerce.

The order gives effect to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal.

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 15 December 1994.  
This order is administered in the Ministry of Commerce.