

EXPOSURE DRAFT



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Industrial Chemicals Environmental Management (Register) Principles 2020

I, Sussan Ley, Minister for the Environment, make the following principles.

Dated 2020

Sussan Ley [DRAFT ONLY—NOT FOR SIGNATURE]
Minister for the Environment

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Part 1—Preliminary

1 Name

This instrument is the *Industrial Chemicals Environmental Management (Register) Principles 2020*.

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Note: This table relates only to the provisions of this instrument as originally made.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 subsection 21(1) of the *Industrial Chemicals Environmental Management (Register) Act 2020*.

4 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) environment;
- (b) industrial use;
- (c) Register;
- (d) relevant industrial chemical;
- (e) scheduling decision.

In this instrument:

Act means the *Industrial Chemicals Environmental Management (Register) Act 2020*.

adverse effect means a change in the morphology, physiology, growth, development, reproduction or life span of an organism, system, or subpopulation that results in:

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- (a) an impairment of the functional capacity of the organism, system or subpopulation; or
- (b) an impairment of the capacity of the organism, system or subpopulation to compensate for additional stress; or
- (c) an increase in the susceptibility of the organism, system or subpopulation to other influences.

assessed use of a relevant industrial chemical means the industrial use of the chemical considered in a risk assessment for the chemical.

GHS means the Globally Harmonized System of Classification and Labelling of Chemicals, published by the United Nations, as in force from time to time.

risk assessment for a relevant industrial chemical means any of the following:

- (a) a Commonwealth risk assessment in relation to the chemical;
- (b) a risk assessment (however described) in relation to the chemical undertaken by any of the following:
 - (i) a State government body;
 - (ii) a foreign government body;
 - (iii) a public international organisation.

Schedule 1 risk characteristics: see section 7.

Schedule 2 risk characteristics: see section 8.

Schedule 3 risk characteristics: see section 9.

Schedule 4 risk characteristics: see section 10.

Schedule 5 risk characteristics: see section 11.

Schedule 6 risk characteristics: see section 12.

Schedule 7 risk characteristics: see section 13.

5 Purpose of this instrument

The purpose of this instrument is to determine principles that the Minister must comply with in making, varying or revoking scheduling decisions for relevant industrial chemicals.

Part 2—Risk characteristics

6 Minister must consider risk characteristics of relevant industrial chemical etc.

- (1) In making, varying or revoking a scheduling decision for a relevant industrial chemical, the Minister must consider whether the chemical, or an industrial use of the chemical, has:
 - (a) Schedule 1 risk characteristics; or
 - (b) Schedule 2 risk characteristics; or
 - (c) Schedule 3 risk characteristics; or
 - (d) Schedule 4 risk characteristics; or
 - (e) Schedule 5 risk characteristics; or
 - (f) Schedule 6 risk characteristics; or
 - (g) Schedule 7 risk characteristics.
- (2) If the Minister is satisfied that the relevant industrial chemical, or the industrial use of the relevant industrial chemical, has risk characteristics of a kind specified in an item of column 1 of the following table, the Minister must decide to list the chemical in the Schedule of the Register specified in column 2 of the item.

Risk characteristics and Schedules of the Register		
Item	Column 1 Risk characteristics	Column 2 Schedules of the Register
1	Schedule 1 risk characteristics	Schedule 1
2	Schedule 2 risk characteristics	Schedule 2
3	Schedule 3 risk characteristics	Schedule 3
4	Schedule 4 risk characteristics	Schedule 4
5	Schedule 5 risk characteristics	Schedule 5
6	Schedule 6 risk characteristics	Schedule 6
7	Schedule 7 risk characteristics	Schedule 7

7 When a relevant industrial chemical etc. has Schedule 1 risk characteristics

A relevant industrial chemical, or an industrial use of a relevant industrial chemical, has **Schedule 1 risk characteristics** if:

- (a) the chemical or use does not have the risk characteristics mentioned in paragraphs 6(1)(b) to (g); and
- (b) a risk assessment for the chemical states that the classification of the environmental hazard of the chemical, in accordance with the GHS, is low hazard or not hazardous.

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Part 2 Risk characteristics

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8 When a relevant industrial chemical etc. has Schedule 2 risk characteristics

A relevant industrial chemical, or an industrial use of a relevant industrial chemical, has *Schedule 2 risk characteristics* if:

- (a) the chemical or use does not have the risk characteristics mentioned in paragraphs 6(1)(c) to (g); and
- (b) a risk assessment for the chemical states that the classification of the environmental hazard of the chemical, in accordance with the GHS, is:
 - (i) harmful, toxic or very toxic to aquatic life (whether acute or chronic);
or
 - (ii) hazardous to the ozone layer; and
- (c) a risk assessment for the chemical states that:
 - (i) the assessed use of the chemical is not predicted to harm any aspect of the environment; and
 - (ii) the chemical is not predicted to cause harm to any aspect of the environment if the assessed use of the chemical changes in a significant way.

9 When a relevant industrial chemical etc. has Schedule 3 risk characteristics

- (1) A relevant industrial chemical, or an industrial use of a relevant industrial chemical, has *Schedule 3 risk characteristics* if:
 - (a) the chemical or use does not have the risk characteristics mentioned in paragraphs 6(1)(d) to (g); and
 - (b) the chemical or use satisfies subsection (2), (3) or (4).
- (2) A relevant industrial chemical, or an industrial use of a relevant industrial chemical, satisfies this subsection if:
 - (a) a risk assessment for the chemical states that the classification of the environmental hazard of the chemical, in accordance with the GHS, is:
 - (i) harmful, toxic or very toxic to aquatic life (whether acute or chronic);
or
 - (ii) hazardous to the ozone layer; and
 - (b) a risk assessment for the chemical states that:
 - (i) the assessed use of the chemical is not predicted to harm any aspect of the environment; and
 - (ii) the chemical may cause harm to an aspect of the environment if the assessed use of the chemical changes in a significant way.
- (3) A relevant industrial chemical, or an industrial use of a relevant industrial chemical, satisfies this subsection if:
 - (a) the chemical is or contains an element, or ion, of concern to the environment; and
 - (b) the chemical is not present in a form that is, or could become, bioavailable as a result of the assessed use of the chemical.
- (4) A relevant industrial chemical, or an industrial use of a relevant industrial chemical, satisfies this subsection if the chemical has other characteristics that may result in adverse short or long-term effects on the environment.

10 When a relevant industrial chemical etc. has Schedule 4 risk characteristics

- (1) A relevant industrial chemical, or an industrial use of a relevant industrial chemical, has *Schedule 4 risk characteristics* if:
 - (a) the chemical or use does not have the risk characteristics mentioned in paragraphs 6(1)(e) to (g); and
 - (b) the chemical or use satisfies subsection (2), (3) or (4).
- (2) A relevant industrial chemical, or an industrial use of a relevant industrial chemical, satisfies this subsection if:
 - (a) a risk assessment for the chemical states that the classification of the environmental hazard of the chemical, in accordance with the GHS, is:
 - (i) harmful, toxic or very toxic to aquatic life (whether acute or chronic);
or
 - (ii) hazardous to the ozone layer; and
 - (b) a risk assessment for the chemical states that:
 - (i) the assessed use of the chemical is not predicted to harm any aspect of the environment; and
 - (ii) the chemical may cause harm to an aspect of the environment if the assessed use of the chemical changes other than in a significant way.
- (3) A relevant industrial chemical, or an industrial use of a relevant industrial chemical, satisfies this subsection if:
 - (a) the chemical is or contains an element, or ion, of concern to the environment; and
 - (b) the chemical is present in a form that is, or could become, bioavailable as a result of the assessed use of the chemical; and
 - (c) the chemical is harmful to the environment with acute or long-lasting effects.
- (4) A relevant industrial chemical, or an industrial use of a relevant industrial chemical, satisfies this subsection if:
 - (a) the chemical is bioaccumulative; or
 - (b) the chemical contains a sequence of one or more fully fluorinated carbon atoms; or
 - (c) the chemical is an endocrine disruptor.

11 When a relevant industrial chemical etc. has Schedule 5 risk characteristics

- (1) A relevant industrial chemical, or an industrial use of a relevant industrial chemical, has *Schedule 5 risk characteristics* if:
 - (a) the chemical or use does not have the risk characteristics mentioned in paragraphs 6(1)(f) and (g); and
 - (b) the chemical or use satisfies subsection (2), (3) or (4).
- (2) A relevant industrial chemical, or an industrial use of a relevant industrial chemical, satisfies this subsection if:
 - (a) a risk assessment for the chemical states that the classification of the environmental hazard of the chemical, in accordance with the GHS, is:

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- (i) harmful, toxic or very toxic to aquatic life (whether acute or chronic);
or
 - (ii) hazardous to the ozone layer; and
 - (b) a risk assessment for the chemical states that the assessed use of the chemical is predicted to harm an aspect of the environment.
- (3) A relevant industrial chemical, or an industrial use of a relevant industrial chemical, satisfies this subsection if:
- (a) the chemical is or contains an element, or ion, of concern to the environment; and
 - (b) the chemical is present in a form that is, or could become, bioavailable as a result of the assessed use of the chemical; and
 - (c) the chemical:
 - (i) is at least toxic to the environment with acute or long-lasting effects;
or
 - (ii) is likely to bioaccumulate causing adverse effects.
- (4) A relevant industrial chemical, or an industrial use of a relevant industrial chemical, satisfies this subsection if:
- (a) the chemical is persistent and bioaccumulative; or
 - (b) the chemical is persistent and toxic; or
 - (c) the chemical is bioaccumulative and toxic; or
 - (d) the chemical is bioaccumulative and an endocrine disruptor; or
 - (e) the chemical:
 - (i) contains a sequence of one or more fully fluorinated carbon atoms;
and
 - (ii) is an endocrine disruptor.

12 When a relevant industrial chemical etc. has Schedule 6 risk characteristics

A relevant industrial chemical, or an industrial use of a relevant industrial chemical, has **Schedule 6 risk characteristics** if:

- (a) the chemical or use does not have the risk characteristics mentioned in paragraph 6(1)(g); and
- (b) the chemical:
 - (i) is persistent, bioaccumulative and toxic; or
 - (ii) degrades into one or more other chemicals that are persistent, bioaccumulative and toxic; or
 - (iii) is otherwise of significant environmental concern.

13 When a relevant industrial chemical etc. has Schedule 7 risk characteristics

A relevant industrial chemical, or an industrial use of a relevant industrial chemical, has **Schedule 7 risk characteristics** if:

- (a) the chemical:
 - (i) is persistent, bioaccumulative and toxic; or

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- (ii) degrades into one or more other chemicals that are persistent, bioaccumulative and toxic; or
 - (iii) is otherwise of significant environmental concern; and
- (b) any one or more of the following apply:
- (i) the chemical has viable alternatives;
 - (ii) the chemical does not have an essential use in Australia;
 - (iii) there are no exceptional circumstances that apply in relation to the chemical.