

AMWU ---- Supplementary Submission Industrial Chemicals Bill 2017 July 2017

Industrial Chemicals Bill 2017

Introduction:

Public health and union groups have consistently aired their misgivings about the proposed changes to the assessment of industrial chemicals. Many groups have made multiple submissions to NICNAS Consultation Papers 1-4 and, including but not limited to, the Regulatory Impact Statement on reforming the NICNAS in 2013.

The Industrial Chemicals Bill 2017 contains very little detail about the delegated legislation which will be the core of the new system. We have taken advantage of the Senate committee processes to draft changes which would improve the Bill.

Draft words for changes to the Industrial Chemicals Bill 2017

Issue -- Categories

Explanation: The new system will not include register of all new chemicals introduced in Australia. The Exempted category is totally reliant on the private sector and there will be no public register of those chemicals. It is important to have a record of introduced chemicals as it is not uncommon that chemicals previously assessed as safe later show harmful effects. [Further explanation in Senate and NICNAS submissions]

Proposal: This omission can be rectified by requiring an annual post introduction report with the name, volume and date of introduction of the industrial chemical– this is consistent with the format of requirements for the other classes of chemicals. Given that the organization must keep a register of the exempted introductions, requiring a limited notification to NICNAS would not be onerous.

Insert new Clause 26 Exempted introductions:

An introduction of an industrial chemical by a person is authorized by this section if

- a. the introduction is an exempted introduction in accordance with rules made for the purposes of subsection{2}*
- b. a post introduction report for the industrial chemical has been given to the ED in accordance with Clause 97A and Clause 99*

Insert new Clause 97A

Post introduction reports for exempted introductions:

A person must give the Executive Director a report in accordance with subsection [1] if the person has introduced an exempted industrial chemical and

[1] The information prescribed must include but is not limited to the following:

- a. The systematic name, CAS number and molecular formula for the industrial chemical*
- b. The annual volume introduced*

Issue - Evaluations initiated by Executive Director [ED]

Explanation: There are nearly 35,000 chemicals on the AICS that have not been assessed [called existing chemicals - those introduced prior to the adoption of the NICNAS scheme in 1989].

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NICNAS has been addressing the lack of assessment of chemicals on the current AICS initially via the legislated PEC processes [which was been very cumbersome but was essential for the banning of asbestos]. In 2012, NICNAS implemented the IMAP following a review and Productivity Commission report to accelerate the assessment of chemicals listed on the AICS. By the end of December 2015, the IMAP process had made 2559 recommendations for 2000 unique chemicals. The majority of recommendations were made to Safe Work Australia (SWA) (62.4 %) and to the Chemicals Scheduling Delegate for the Poisons Standard (13.5 %) [NICNAS report on IMAP]. This excellent result demonstrates that this work must be continued and cannot be left to the discretion of the ED.

The Part 4 Division 3 of the Bill does not commit to a continuation of the success of the IMAP process and unfortunately is very similar to the discredited and cumbersome PEC process. The examples included in the Explanatory Memorandum do not refer to about 35,000 non-assessed existing chemicals – the IMAP process

Proposal: To ensure a continuation of the successfully trialled IMAP process which has been shown to provide a flexible and transparent approach to prioritising the large number of chemicals on the AICS.

Insert new Clause 74A

Executive Director will implement a system of assessment of unassessed chemicals listed on the AICIS – known as “existing chemicals” for the risks they pose to the Australian workforce, public and environment

Replicate the requirements of Clause 74 [2] and [3]

Issue - Reliance on Risk managers

Explanation: The Bill does not include ability for NICNAS to track or report on the action taken by risk managers in response to recommendations made in NICNAS assessments. The lack of uptake of the work of NICNAS by other regulators remains a fundamental concern. See above and in previous submissions.

This is of added importance as Australia has no system of systemic adverse reaction reporting or human biomonitoring. Chemical body burden monitoring programs are routine in many countries including the USA, Canada, and Europe. Many other countries, such as Russia, China, India, Taiwan, Turkey, and French West Indies similarly test the chemical loading among their population. This is the ultimate test of efficacy of a regulatory framework and is absent from the Australian framework. This Bill does not provide the opportunity for such reform however it does provide an opportunity to at least track and report on the action taken by risk managers.

If risk managers had acted on NICNAS recommendations significant operational problems with the exposures to fire fighting foams would have been avoided ¹

Proposal: Require NICNAS to obtain and make publically available, a report from the relevant organization on the outcome of recommendations flowing from assessments.

Insert new Clause 128a Reporting on action taken by Prescribed Bodies

NICNAS to annually provide a public report on action taken by prescribed bodies with reference to information provided to any prescribed body by NICNAS.

¹ Inquiry into the CFA Training College at Fiskville Final Report, Parliament of Victoria 2016

¹ PEC Report Formaldehyde 2006 recommended a reduction in the workplace exposure standard – 11 years later this has not be adopted by SWA or any H&S regulator.