

Labor Senators' Additional Comments

1.1 While not opposing the Committee's recommendation that the Bills be passed, Labor Senators remain concerned about some aspects of the Industrial Chemicals Bill and believe these concerns should be addressed with several amendments, as noted in the following comments.

Legislative approach

1.2 Labor Senators note with concern the lack of detail in these Bills and in the Explanatory Memorandum, with most of the detail being left to rules or regulations.

1.3 The Government is once again asking the Parliament to pass the Bills and trust it on the implementation.

1.4 Although the Department of Health (Department) has explained its reasoning for significant parts of the scheme to be provided for in rules, Labor Senators reserve their right to closely scrutinise the regulations and to disallow any which do not adequately ensure health and environmental protections are not diminished.

Exempted Introductions

1.5 Many stakeholders had concerns about the introduction of industrial chemicals without notification to the regulator through the 'Exempted Introduction' category, particularly as there would be no tracking of these introductions.

1.6 Whilst this category is for 'very low risk' chemicals, the potential exists that a chemical presently considered safe could be found, perhaps many years later, to be hazardous.

1.7 The Department's explanation that the introducer will need to notify the regulator that they have introduced chemicals in this category does not allay these concerns because the details about *which* chemicals were introduced under that category are not provided to the regulator.

1.8 When asked about how it would deal with a situation where, for whatever reason, this detail was inaccurate or not kept by industry, the Department referred to the record keeping requirements and penalties for failure to do so. As such, the response did not alleviate concerns about the difficulty in tracking potential exposures if these records are not able to be obtained from the introducer.

1.9 The Department also said that:

...our analysis shows that there would be more chemicals coming in the reported category, where people have to tell us before they introduce, as opposed to that exempted category, where there is no interaction with the regulator.¹

1 Dr Sarah Rumble, Principal Advisor, NICNAS Reforms, National Industrial Chemicals Notification and Assessment Scheme, *Committee Hansard*, 26 July 2017, p. 27.

1.10 If that is the case and as industry would be required to keep records of the introductions, then Labor Senators believe that it would not be onerous on an introducer using the 'exempted introduction' category if they are required to provide an annual report to the regulator listing the name, volume and date of introduction of the industrial chemical.

1.11 This approach would preserve the principle of a register of industrial chemicals, provide greater transparency and should new information about the nature of a chemical come to light, make tracking exposures far easier.

Continuation of IMAP

1.12 The IMAP process received praise from many stakeholders. The Department's assurance to the committee that the IMAP process or something similar will continue and indeed be strengthened is helpful.

1.13 Nonetheless, the lack of detail in the Bill and the Explanatory Memorandum on this and other matters, Labor Senators would be further reassured if this commitment was included in the primary Bill.

Animal test data ban

1.14 Labor has a strong track record on animal testing, having introduced a private member's bill to Parliament in February 2016 to ban animal testing for cosmetics in Australia, and also ban the manufacture and importation into Australia of cosmetics that have been tested on animals elsewhere. While this Bill responds to pressure from Labor and advocates on this issue, concerns have been raised.

1.15 The animal welfare sector raised concerns that the ban on the use of animal test data for cosmetics has been drafted to be very narrow and that it contains a loophole which would allow animal test data to be used in industrial chemicals introduced for multi end use.

1.16 Labor Senators believe that an amendment to introduce a two track system, as suggested in Be Cruelty-Free's submission, will be more comprehensive than the legislation as currently drafted.

1.17 As the Government agrees in principle with banning the use of animal test data in cosmetics, and the Department's own submission suggests that there are few cases where its ban would not apply, the proposed two track approach would seem unlikely to create a significant regulatory burden whilst providing much more confidence in the system.

Reliance on Risk Managers

1.18 In its submission the AMWU noted that:

If risk managers had acted on NICNAS recommendations significant operational problems with the exposures to fire fighting foams would have been avoided²

2 AMWU, *Submission 8.1*, [p. 2].

1.19 Labor Senators believe that better information on the uptake of the regulator's recommendations will better inform policy decisions and therefore call for the legislation to be amended to require the regulator to obtain and make publically available, an annual report on the outcome of recommendations flowing from assessments.

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