

## **LEGISLATIVE COUNCIL BRIEF**

### **Hazardous Chemicals Control Ordinance (Cap. 595)**

#### **Hazardous Chemicals Control Ordinance (Amendment of Schedules 1 and 2) Order 2014**

### **INTRODUCTION**

The Secretary for the Environment has made the Hazardous Chemicals Control Ordinance (Amendment of Schedules 1 and 2) Order 2014 (the Amendment Order), as set out in **Appendix 1**, under Section 50 of the Hazardous Chemicals Control Ordinance (Chapter 595) (the Ordinance) to give effect to the recent amendments of the Stockholm Convention on Persistent Organic Pollutants (the Stockholm Convention) and to reduce the potential risks posed by hazardous chemicals.

### **JUSTIFICATION**

2. At present, two international conventions address the potential risks posed by hazardous chemicals. The Stockholm Convention aims to reduce releases from production and use of listed chemicals with a view to ultimately eliminating them. The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (the Rotterdam Convention) seeks to regulate international trade of another list of hazardous chemicals through a prior informed consent (PIC) system. The Stockholm Convention and the Rotterdam Convention entered into force in China in 2004 and 2005 respectively. The Central People's Government applied the Stockholm Convention and the Rotterdam Convention to the Hong Kong Special Administrative Region (HKSAR) in 2004 and 2008 respectively.

3. In December 2011, the Stockholm Convention covered a total of 22 persistent organic pollutants, including 10 newly listed hazardous chemicals which can be placed in three categories, namely, pesticides, industrial chemicals and unwanted by-products of industrial processes. There are a total of 43 chemicals listed in the Rotterdam Convention, 32 are pesticides (including 4 severely hazardous pesticide formulations) and 11 industrial chemicals.

4. To fulfil our obligations under the two Conventions, the Ordinance was enacted in Hong Kong in 2008 to regulate the manufacture, export, import and use of

non-pesticide hazardous chemicals<sup>1</sup> through a permit system. Section 50 of the Ordinance stipulates that any amendment to the list of Convention-regulated chemicals<sup>2</sup> in the Schedule 1 and/or Schedule 2 to the Ordinance is to be made by the Secretary for the Environment by order published in the Gazette.

5. At the 4<sup>th</sup> and 5<sup>th</sup> meetings of the Conference of the Parties to the Stockholm Convention held in 2009 and 2011, the Parties adopted amendments to list 10 new chemicals in the elimination and restriction lists (i.e. Annex A and Annex B respectively) of the Stockholm Convention. Of these 10 new chemicals, 5 are non-pesticide industrial chemicals as shown below:

- (i) Hexabromobiphenyl (HBB) - Appendix 2, Item 1.1;
- (ii) Hexabromodiphenyl ether and heptabromodiphenyl ether (commercial octaBDE) - Appendix 2, Item 1.2;
- (iii) Pentachlorobenzene (PeCB) - Appendix 2, Item 1.3;
- (iv) Tetrabromodiphenyl ether and pentabromodiphenyl ether (commercial pentaBDE) - Appendix 2, Item 1.4; and
- (v) Perfluorooctane sulfonic acid (PFOS), its salts and perfluorooctane sulfonyl fluoride (PFOSF) - Appendix 2, Item 2.1.

Details of the changes are at **Appendix 2**.

6. The Office of the Commissioner of the Ministry of Foreign Affairs informed us that China, as a Party to the Stockholm Convention, tendered its acceptance to the above amendments on 26 December 2013. The amendments will enter into force in China including HKSAR on 26 March 2014 (i.e. the ninetieth day after the date of the said acceptance). To give effect to the amendments to the Stockholm Convention in Hong Kong, we need to amend Part 1 of Schedule 1 and Part 1 of Schedule 2 to the Ordinance accordingly to include the chemicals mentioned in paragraph 5 above in Part 1 of Schedules 1 and 2 to the Ordinance. The amendment of the said Schedules does not change the existing permit control mechanism of the Ordinance. Once the new non-pesticide hazardous chemicals are included in the Schedules, they will be

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<sup>1</sup> Pesticides controlled under the two Conventions are controlled under the Pesticides Ordinance (Cap. 133) administered by the Agriculture, Fisheries and Conservation Department. "Hazardous chemical" is defined in section 2 of the Hazardous Chemicals Control Ordinance to mean "any chemical that (a) is not a pesticide; and (b) has potentially harmful or adverse effect on human health or the environment, including any such chemical that is subject to the regulation of the Rotterdam Convention or the Stockholm Convention."

<sup>2</sup> Under section 50 of the Hazardous Chemicals Control Ordinance, a chemical is a Convention-regulated chemical if the chemical is subject to the regulation of the Rotterdam Convention or the Stockholm Convention on the relevant day defined thereunder.

subject to the control mechanism currently applied to the existing hazardous chemicals listed in the Part 1 of the Schedules 1 and 2 to the Ordinance.

## **THE AMENDMENT ORDER**

7. The Amendment Order amends Schedules 1 and 2 to the Ordinance to reflect the changes referred in paragraph 5 above.

## **LEGISLATIVE TIMETABLE**

8. We will publish the Amendment Order in the Gazette on 30 May 2014 and table it at the Legislative Council for negative vetting on 4 June 2014. Subject to the negative vetting by the Legislative Council, the Amendment Order will take effect on 1 January 2015.

## **IMPLICATIONS OF THE LEGISLATION AMENDMENTS**

9. The Amendment Order is in conformity with the Basic Law, including the provisions concerning human rights. The Amendment Order has no financial or civil service implications as the Environmental Protection Department will absorb the additional workload arising from implementing and enforcing the Order with its existing resources.

10. By taking forward the above amendments, the newly listed hazardous chemicals which are classified as persistent organic pollutants, will be subject to control under the Ordinance. We can therefore better protect the general public and the environment against the potential health or pollution problems due to exposure to such chemicals. The Amendment Order will also contribute to the global efforts in regulating the non-pesticide industrial chemicals.

## **PUBLIC CONSULTATION**

11. We conducted two briefing sessions in July 2010 on the possible listing of the new chemicals in the Schedules to the Ordinance. About 100 participants from local chemical traders, fire service contractors, academia, trade and industry associations attended the briefing sessions. They raised no objection to the proposed new control as such control would be required under the Stockholm Convention. In a local survey on the uses of the 5 new non-pesticide chemicals conducted in May 2012 covering about 350 institutions, the trades were again reminded that the

Schedules to the Ordinance would be amended once the Central People's Government accepted the subject amendments. In mid-January 2014, we informed the trades of China's acceptance of the amendments to the Stockholm Convention.

12. Our survey found that the 5 newly listed non-pesticide hazardous chemicals were mainly used in local laboratories as reference standards for equipment calibration, as in the case of other hazardous chemicals currently listed in the Ordinance. There was only one record of import and export of PFOS in Hong Kong in 2010. No report on the use of these hazardous chemicals in local manufacturing industry was noted from the survey. Since the non-pesticide hazardous chemicals are mainly used as reference standards, it is expected that the amendment to the Schedules 1 and 2 to the Ordinance would have minimal impact to the trades.

13. We briefed the Legislative Council Panel on Environmental Affairs on 24 March 2014 on the proposed amendments. No adverse comment had been received from the Panel.

## **PUBLICITY**

14. Upon gazetting the Amendment Order, we will issue a press release to inform the relevant trades the commencement date of the legislative amendments, which is 1 January 2015.

## **ENQUIRIES**

15. For enquiries about this brief, please contact Mr. C F Wong, Principal Environmental Protection Officer of the Environmental Protection Department, at 2594 6309.

**Environmental Protection Department**  
**May 2014**

## Appendix 1

Hazardous Chemicals Control Ordinance (Amendment of Schedules 1 and 2) Order  
2014

Section 1

1

### Hazardous Chemicals Control Ordinance (Amendment of Schedules 1 and 2) Order 2014

(Made by the Secretary for the Environment under section 50(1) of the  
Hazardous Chemicals Control Ordinance (Cap. 595))

#### 1. Commencement

This Order comes into operation on 1 January 2015.

#### 2. Hazardous Chemicals Control Ordinance amended

The Hazardous Chemicals Control Ordinance (Cap. 595) is  
amended as set out in sections 3 and 4.

#### 3. Schedule 1 amended

Schedule 1, Part 1—

##### Repeal items 1 and 2

##### Substitute

- |  |             |
|--|-------------|
| “1. Hexabromobiphenyl (HBB)  | 36355-01-8  |
| 2. Hexabromodiphenyl ether (hexaBDE) and<br>heptabromodiphenyl ether (heptaBDE): |             |
| (a) 2,2',4,4',5,5'-hexabromodiphenyl<br>ether (BDE-153)                          | 68631-49-2  |
| (b) 2,2',4,4',5,6'-hexabromodiphenyl<br>ether (BDE-154)                          | 207122-15-4 |
| (c) 2,2',3,3',4,5',6-heptabromodiphenyl<br>ether (BDE-175)                       | 446255-22-7 |

Hazardous Chemicals Control Ordinance (Amendment of Schedules 1 and 2) Order  
2014

Section 4

2

- |  |             |
|--|-------------|
| (d) 2,2',3,4,4',5',6-heptabromodiphenyl<br>ether (BDE-183)   | 207122-16-5 |
| (e) other hexa- and<br>heptabromodiphenyl ethers<br>present in commercial<br>octabromodiphenyl ether |             |

3. Hexachlorobenzene (HCB) 118-74-1

4. Pentachlorobenzene (PeCB) 608-93-5

5. Polychlorinated biphenyls (PCB) 1336-36-3

6. Tetrabromodiphenyl ether (tetraBDE) and  
pentabromodiphenyl ether (pentaBDE):

(a) 2,2',4,4'-tetrabromodiphenyl ether 5436-43-1  
(BDE-47)

(b) 2,2',4,4',5-pentabromodiphenyl ether 60348-60-9".  
(BDE-99)

(c) other tetra- and pentabromodiphenyl  
ethers present in commercial  
pentabromodiphenyl ether

#### 4. Schedule 2 amended

Schedule 2, Part 1—

##### Repeal items 2, 3, 4, 5 and 6

##### Substitute

“2. Perfluorooctane sulfonic acid, its salts and  
perfluorooctane sulfonyl fluoride:

(a) perfluorooctane sulfonic acid (PFOS) 1763-23-1

- (b) salts of perfluorooctane sulfonic acid,  
for example:
- (i) potassium perfluorooctane sulfonate 2795-39-3
  - (ii) lithium perfluorooctane sulfonate 29457-72-5
  - (iii) ammonium perfluorooctane sulfonate 29081-56-9
  - (iv) diethanolammonium perfluorooctane sulfonate 70225-14-8
  - (v) tetraethylammonium perfluorooctane sulfonate 56773-42-3
  - (vi) didecyldimethylammonium perfluorooctane sulfonate 251099-16-8
- (c) perfluorooctane sulfonyl fluoride (PFOSF) 307-35-7
3. Polybrominated biphenyls (PBB):
- (a) octabromobiphenyl 27858-07-7
  - (b) decabromobiphenyl 13654-09-6
4. Polychlorinated terphenyls (PCT) 61788-33-8
5. Tetraethyl lead 78-00-2
6. Tetramethyl lead 75-74-1
7. Tris (2,3-dibromopropyl) phosphate 126-72-7".



Secretary for the Environment

2014 5.26

### Explanatory Note

The Hazardous Chemicals Control Ordinance (Cap. 595) (*Ordinance*) regulates the manufacture, export, import and use of certain hazardous chemicals. These chemicals are specified in Schedules 1 and 2 to the Ordinance, and include those subject to the regulation of the Stockholm Convention on Persistent Organic Pollutants (*Stockholm Convention*).

2. The list of chemicals subject to the regulation of the Stockholm Convention has been amended. Correspondingly, this Order amends Schedules 1 and 2 to the Ordinance to update the list of chemicals regulated by the Ordinance.

**Proposed Amendments to the Schedules to  
the Hazardous Chemicals Control Ordinance (HCCO) (Cap. 595)**

**Inclusions of new non-pesticide chemicals in the Annexes of the Stockholm Convention**

**1. Annex A**

Item	Chemical	CAS Registry Number
1.1	Hexabromobiphenyl (HBB)	36355-01-8
1.2	Hexabromodiphenyl ether and heptabromodiphenyl ether (commercial octa-BDE):	
	(a) 2,2',4,4',5,5'-hexabromodiphenyl ether (BDE-153)	68631-49-2
	(b) 2,2',4,4',5,6'-hexabromodiphenyl ether (BDE-154)	207122-15-4
	(c) 2,2',3,3',4,5',6-heptabromodiphenyl ether (BDE-175)	446255-22-7
	(d) 2,2',3,4,4',5',6-heptabromodiphenyl ether (BDE-183)	207122-16-5
	(e) other hexa- and heptabromodiphenyl ethers present in commercial octabromodiphenyl ether	
1.3	Pentachlorobenzene (PeCB)	608-93-5
1.4	Tetrabromodiphenyl ether and pentabromodiphenyl ether (commercial penta-BDE):	
	(a) 2,2',4,4'-tetrabromodiphenyl ether (BDE-47)	5436-43-1
	(b) 2,2',4,4',5-pentabromodiphenyl ether (BDE-99)	60348-60-9
	(c) other tetra- and pentabromodiphenyl ethers present in commercial pentabromodiphenyl ether	

**Note:** Part 1 of Schedule 1 to the HCCO will be amended to include the above chemicals listed in Annex A of the Stockholm Convention.



## 2. Annex B

Item	Chemical		CAS Registry Number
2.1	Perfluorooctane sulfonic acid, its salts and perfluorooctane sulfonyl fluoride:		
	(a)	perfluorooctane sulfonic acid (PFOS)	1763-23-1
	(b)	salts of perfluorooctane sulfonic acid, for example:	
		(i) potassium perfluorooctane sulfonate	2795-39-3
		(ii) lithium perfluorooctane sulfonate	29457-72-5
		(iii) ammonium perfluorooctane sulfonate	29081-56-9
		(iv) diethanolammonium perfluorooctane sulfonate	70225-14-8
		(v) tetraethylammonium perfluorooctane sulfonate	56773-42-3
		(vi) didecyldimethylammonium perfluorooctane sulfonate	251099-16-8
	(c)	perfluorooctane sulfonyl fluoride (PFOSF)	307-35-7

**Note:** Part 1 of Schedule 2 to the HCCO will be amended to include the above chemicals listed in Annex B of the Stockholm Convention.