

LEGISLATIVE COUNCIL BRIEF

Hazardous Chemicals Control Ordinance (Cap. 595)

**Hazardous Chemicals Control Ordinance
(Amendment of Schedule 1) Order 2016**

INTRODUCTION

The Secretary for the Environment has made the Hazardous Chemicals Control Ordinance (Amendment of Schedule 1) Order 2016 (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 2013 amendment of Annex A to the Stockholm Convention on Persistent Organic Pollutants (the Stockholm Convention)¹, with a view to reducing the potential risks posed by hazardous chemicals.

JUSTIFICATION

2. The Stockholm Convention aims to (i) control or restrict the trade, production and use of persistent organic pollutants (POPs); and (ii) reduce and ultimately eliminate the production and release of unintentionally produced POPs². POPs covered by the Stockholm Convention include pesticides, industrial chemicals and unintentionally produced by-products of industrial processes. The Stockholm Convention entered into force in the People's Republic of China (China) (including the Hong Kong Special Administrative Region (HKSAR)) in November 2004.

¹ At its 6th meeting held in Geneva, Switzerland, from 28 April to 10 May 2013, the Conference of the Parties to the Stockholm Convention adopted an amendment to Annex A, in decision SC-6/13, to list hexabromocyclododecane as a new POP.

² Unintentionally produced POPs are dioxins and furans which are very toxic by nature.

3. To fulfil the obligations under the Stockholm Convention that are applicable to the HKSAR, the Ordinance³ was enacted in the HKSAR in 2008 to regulate the manufacture, export, import and use of non-pesticide hazardous chemicals⁴ through a permit system. Section 50(1)(a) of the Ordinance stipulates that the Secretary for the Environment may by order published in the Gazette add any Convention-regulated chemical⁵, including its Chemical Abstract Service (CAS) registry number or other description, to Part 1 of Schedule 1 or 2.

4. The list of POPs under the Stockholm Convention is amended from time to time to add in new chemicals. Upon entry into force in China (including the HKSAR) of an amendment to the list of POPs, we will amend Part 1 of Schedule 1 to the Ordinance to give effect to the amendment of the said list under the Stockholm Convention. The last amendment to the Ordinance took effect in 2015, covering the Stockholm Convention's list of POPs up to 2011.

5. Hexabromocyclododecane (HBCD) has been widely used globally as additive brominated flame retardants (BFRs) in extruded and high-impact polystyrene foams applied in thermal insulation building materials, upholstery textiles and electrical equipment housings. HBCD is commonly used to replace polybrominated diphenyl ether, which was put under the elimination list (i.e. Annex A) of the Stockholm Convention in 2009. However, HBCD itself has become a concern owing to its toxicity, persistence, bioaccumulative nature and scale of use. At its 6th meeting held in 2013, the Conference of the Parties to the Stockholm Convention adopted an amendment to the POP list by adding HBCD. Details of the amendment are at **Appendix 2**.

6. The Office of the Commissioner of the Ministry of Foreign Affairs informed the HKSAR that China, as a Party to the Stockholm Convention, deposited its instrument of ratification of the above amendment on 27 September 2016. In accordance with the Stockholm Convention, the amendment will enter

³ The Ordinance also serves to regulate the manufacture, export, import and use of non-pesticide hazardous chemicals including those which are subject to the regulation of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade in the HKSAR.

⁴ Under section 2 of the Ordinance, "hazardous chemical" is defined to mean "any chemical that (a) is not a pesticide; and (b) has potentially harmful or adverse effect on human health or the environment. Pesticides controlled under the Stockholm Convention are regulated by the Pesticides Ordinance (Chapter 133).

⁵ Under section 50 of the Ordinance, a chemical is a Convention-regulated chemical if the chemical is subject to the regulation of, inter alia, the Stockholm Convention on the relevant day defined thereunder.

into force in China (including the HKSAR) on 26 December 2016 (i.e. the ninetieth day after the date of deposit of the said instrument of ratification). To give effect to this amendment to the Stockholm Convention in the HKSAR, we shall amend Part 1 of Schedule 1 to the Ordinance accordingly. The amendment of the said Schedule does not change the existing permit control mechanism of the Ordinance. Once HBCD is included in Schedule 1 to the Ordinance, it will be subject to the same permit control mechanism currently applied to the existing hazardous chemicals listed in that Schedule.

THE AMENDMENT ORDER

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

LEGISLATIVE TIMETABLE

8. We will publish the Amendment Order in the Gazette on 23 December 2016 and table it at the Legislative Council for negative vetting on 11 January 2017. Subject to the negative vetting by the Legislative Council, the Amendment Order will take effect on 1 June 2017.

IMPLICATIONS OF THE LEGISLATION AMENDMENT

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 Amendment Order with its existing resources.

10. By taking forward the above amendment, HBCD which is classified as a POP under the Stockholm Convention will be subject to control under the Ordinance, thus protecting the general public against the potential health and environmental threats due to exposure to this chemical.

PUBLIC CONSULTATION

11. We conducted a survey in May 2014 on the use of HBCD in the HKSAR. The survey covered around 400 stakeholders from 26 industry groups including chemicals, pharmaceutical & petroleum products, chemical waste collectors, construction contractors, certified laboratories, trade associations, and permit holders under the Ordinance. The survey indicated that only nine organisations have imported or used HBCD from 2011 to 2013 as a standard reference material for providing laboratory testing or certification services, with quantities used or stockpiled ranging from only 1 mg to 28 g. No manufacture of HBCD or use of HBCD in manufacturing processes was found in the survey.

12. We organised two consultation sessions in December 2014 and March 2015 respectively covering the proposed listing of HBCD in the Schedule to the Ordinance. The two sessions were attended by a total of about 100 stakeholders from different sectors including the academia, chemical traders, fire service contractors, trade associations and relevant Government departments. The attendees raised no objection to the control of HBCD and some enquired about issues relating to the permit requirements and time-frame for making the permit applications. In mid-October 2016, we informed the trade including all previously consulted stakeholders of China's acceptance of the amendments to the Stockholm Convention. No follow-up comment or enquiry was received from them.

13. We circulated an information note on the proposed amendments to the Legislative Council Panel on Environmental Affairs in November 2016. No adverse comment was received from the Panel.

PUBLICITY

14. Upon gazetting the Amendment Order, we will issue a press release to inform the public the commencement date of the legislative amendments, which is 1 June 2017.

ENQUIRIES

15. For enquiries about this brief, please contact Mr. Daniel Tang, Senior Environmental Protection Officer of the Environmental Protection Department, at 2594 6502.

Environmental Protection Department
December 2016

Hazardous Chemicals Control Ordinance (Amendment of Schedule 1) Order 2016

(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 June 2017.

2. Hazardous Chemicals Control Ordinance amended

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

3. Schedule 1 amended

Schedule 1, Part 1, after item 6—

Add

“7. Hexabromocyclododecane:

- (a) hexabromocyclododecane 25637-99-4
- (b) 1,2,5,6,9,10-hexabromocyclododecane 3194-55-6
- and its main diastereoisomers:
 - (i) alpha-hexabromocyclododecane 134237-50-6
 - (ii) beta-hexabromocyclododecane 134237-51-7
 - (iii) gamma-hexabromocyclododecane 134237-52-8”.

Secretary for the Environment

2016 . 12 . 8 .

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 (*Convention*).

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

**Proposed Amendment to the Schedule to
the Hazardous Chemicals Control Ordinance (HCCO) (Cap. 595)**

Inclusion of HBCD in the Annex to the Stockholm Convention

1. Annex A

Item	Chemical	CAS Registry Number
1	Hexabromocyclododecane	
	(a) hexabromocyclododecane	25637-99-4
	(b) 1,2,5,6,9,10-hexabromocyclododecane and its main diastereoisomers:	3194-55-6
	(i) alpha- hexabromocyclododecane	134237-50-6
	(ii) beta-hexabromocyclododecane	134237-51-7
	(iii) gamma-hexabromocyclododecane	134237-52-8

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.