

**LEGISLATIVE COUNCIL BRIEF**

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

**Hazardous Chemicals Control Ordinance  
(Amendment of Schedule 2) Order 2018**

**INTRODUCTION**

The Secretary for the Environment has made the Hazardous Chemicals Control Ordinance (Amendment of Schedule 2) Order 2018 (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 2017 amendment of Annex III to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (the Rotterdam Convention).

**JUSTIFICATION**

2. The Rotterdam Convention aims to promote shared responsibility and cooperative efforts among the Parties to Convention in the international trade of specified hazardous chemicals, through a prior informed consent procedure<sup>1</sup> on their import and export, with a view to protecting human health and the environment from potential harm arising from these chemicals. The Rotterdam Convention entered into force in the People's Republic of China (China) on 20 June 2005 and was subsequently extended by China to apply to the Hong Kong Special Administrative Region (HKSAR) on 26 August 2008.

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<sup>1</sup> The prior informed consent procedure is a mechanism for formally obtaining and disseminating the decisions of importing Parties as to whether they wish to receive future shipments of those chemicals listed in Annex III of the Rotterdam Convention and for ensuring compliance with these decisions by exporting Parties.

3. To fulfil the obligations under the Rotterdam Convention that are applicable to the HKSAR, the Ordinance<sup>2</sup> was enacted in the HKSAR in 2008 to regulate the manufacture, export, import and use of non-pesticide hazardous chemicals<sup>3</sup> through a permit system. Section 50 of the Ordinance stipulates that the Secretary for the Environment may by order published in the Gazette make any amendments to the list of Convention-regulated chemicals<sup>4</sup> in the relevant Schedules to the Ordinance.

4. The Conference of Parties (COP) to the Rotterdam Convention amends the list of hazardous chemicals from time to time to add chemicals that are newly found to be hazardous to human health and the environment. According to our established practice, to give effect to the amendment upon adoption in the COP, we will amend Part 1 of Schedule 2 to the Ordinance accordingly. The last amendment to the Ordinance to cover hazardous chemicals newly listed in the Rotterdam Convention took effect in 2015<sup>5</sup>.

5. Short-chain chlorinated paraffins (SCCPs) are widely used as a constituent of metal working fluids and lubricants. SCCPs are also used as plasticiser and flame-retardant in plastics especially polyvinyl chloride (PVC), and as a flame-retardant additive to a variety of products including rubber formulations, paints, coatings and sealants.

6. Tributyltin compounds (TBT) is a highly toxic biocide that has been used extensively in anti-fouling paint, commonly known as bottom paint, for applying to the wet bottom of ship hull to discourage the growth of marine organisms such as barnacles, mussels and algae. TBT is also used as a stabiliser in the manufacturing of plastic products and as a catalyst in the PVC processing industry.

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<sup>2</sup> The Ordinance also serves to implement the Stockholm Convention on Persistent Organic Pollutants (the Stockholm Convention) in the HKSAR.

<sup>3</sup> Pesticides controlled under the Rotterdam Convention and the Stockholm Convention are regulated by the Pesticides Ordinance (Cap. 133).

<sup>4</sup> Under 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.

<sup>5</sup> The last amendment to the Ordinance to cover Persistent Organic Pollutants newly listed in the Stockholm Convention took effect in 2017.

7. At the 8<sup>th</sup> meeting of the COP to the Rotterdam Convention held in 2017, the Parties adopted an amendment to list SCCPs and TBT as industrial chemicals in Annex III of the Rotterdam Convention in view of their toxicity, persistence in the environment and bioaccumulative nature. Details of the amendment are at **Appendix 2**.

8. In accordance with the provisions of the Rotterdam Convention, listing of chemicals in Annex III does not require further ratification by the Parties. As decided in the 8th meeting of the COP to the Rotterdam Convention, the amendment of Annex III to include SCCPs and TBT would enter into force on 15 September 2017.

9. To give effect to this amendment to the Rotterdam Convention in the HKSAR, we have to accordingly amend Part 1 of Schedule 2 to the Ordinance by adding SCCPs and TBT to the list of scheduled chemicals. The amendment of the Schedule does not change the existing permit control mechanism of the Ordinance, which requires a valid permit for any import, export, manufacture and use of the scheduled chemicals<sup>6</sup>.

## **THE AMENDMENT ORDER**

10. The Amendment Order amends Schedule 2 to the Ordinance to reflect the changes referred to in paragraph 7 above.

## **LEGISLATIVE TIMETABLE**

11. We will publish the Amendment Order in the Gazette on 9 February 2018 and table it at the Legislative Council for negative vetting on 28 February 2018. Subject to negative vetting by the Legislative Council, the Amendment Order will take effect on 1 July 2018.

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<sup>6</sup> Under this arrangement, an activity-based permit issued under the Ordinance is required for the manufacture and use of the scheduled chemicals. In addition, for import or export, a consignment-based licence issued under the Import and Export Ordinance is required together with evidence of explicit consent from the export or import countries or regions, as required under the Rotterdam Convention.

## **IMPLICATIONS OF THE LEGISLATION AMENDMENT**

12. 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.

13. With the above amendment, SCCPs and TBT which are classified as hazardous chemicals under the Rotterdam Convention will be subject to control under the Ordinance, thereby protecting the general public from the potential health and environmental threats owing to exposure to these chemicals.

## **PUBLIC CONSULTATION**

14. We conducted surveys and consulted relevant trades in May 2014 and October 2016 on the use of SCCPs and in January 2017 on the use of TBT in the HKSAR, with a view to assessing the impact of listing these chemicals in Schedule 2 to the Ordinance on the trades and stakeholders. As revealed in the surveys, SCCPs and TBT were only used in very small quantities as standard reference material in some laboratories in the HKSAR. The total quantities of SCCPs and TBT imported and stored by laboratories and chemical trading companies in the HKSAR were also very small. No manufacture of these chemicals or use of them in manufacturing processes was found. Details of the surveys conducted are given in **Appendix 3**.

15. Upon the listing of SCCPs and TBT in Annex III of the Rotterdam Convention at the 8th meeting of the COP in May 2017, we have issued letters to keep approximately 400 stakeholders related to hazardous chemicals informed of the coming proposed amendment of Schedule 2 to the Ordinance to include these chemicals. We have not received any objection to the control of SCCPs and TBT under the Ordinance.

16. We circulated an information note on the proposed amendment to the Legislative Council Panel on Environmental Affairs in January 2018. No adverse comment was received from the Panel.

## **PUBLICITY**

17. Upon gazetting the Amendment Order, we will issue a press release to inform the public the commencement date of the legislative amendment, which is 1 July 2018.

## **ENQUIRIES**

18. 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**  
**February 2018**

**Hazardous Chemicals Control Ordinance (Amendment of Schedule 2) Order 2018**

(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 July 2018.

**2. Hazardous Chemicals Control Ordinance amended**

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

**3. Schedule 2 amended**

Schedule 2, Part 1—

**Repeal items 5, 6 and 7**

**Substitute**

“5. Short-chain chlorinated paraffins	85535-84-8
6. Tetraethyl lead	78-00-2
7. Tetramethyl lead	75-74-1
8. Tributyltin compounds:	
(a) tributyltin oxide	56-35-9
(b) tributyltin fluoride	1983-10-4
(c) tributyltin methacrylate	2155-70-6
(d) tributyltin benzoate	4342-36-3
(e) tributyltin chloride	1461-22-9
(f) tributyltin linoleate	24124-25-2
(g) tributyltin naphthenate	85409-17-2

9. Tris (2,3-dibromopropyl) phosphate 126-72-7”.



Secretary for the Environment

2018 .2.2.

### 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 Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (*Rotterdam Convention*).

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

**Proposed Amendment to Schedule 2 to  
the Hazardous Chemicals Control Ordinance (Cap. 595)**

**Inclusion of SCCPs and TBT in Annex III to the Rotterdam Convention**

**1. Annex III**

Item	Chemical	CAS Registry Number
1	Short-chain chlorinated paraffins	85535-84-8
2	Tributyltin compounds:	
	– tributyltin oxide	56-35-9
	– tributyltin fluoride	1983-10-4
	– tributyltin methacrylate	2155-70-6
	– tributyltin benzoate	4342-36-3
	– tributyltin chloride	1461-22-9
	– tributyltin linoleate	24124-25-2
	– tributyltin naphthenate	85409-17-2

**Note:** Part 1 of Schedule 2 to the Ordinance will be amended to include the above chemicals listed in Annex III to the Rotterdam Convention.



**Public Consultations for Proposed Amendments to Schedule 2 to  
the Hazardous Chemicals Control Ordinance (Cap. 595)**

**SCCPs**

1. We conducted surveys in May 2014 and October 2016 on the use of SCCPs in the HKSAR. The surveys 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. In the May 2014 survey, a total of 140 completed questionnaires were received. Among these returns, only 10 stakeholders were found to have used/imported SCCPs which included 8 commercial/institutional laboratories and 2 chemical trading companies. Within the period from 2011 to 2013, the laboratories consumed a total quantity of about 1.4kg of SCCPs as standard reference material (SRM) for testing and 1.3g was stored in the laboratories at the time of the survey. Within the period, the total quantities of SCCPs imported and exported by the 2 chemical trading companies were about 150g and 2g respectively. No manufacture of SCCPs or use of SCCPs in manufacturing processes was found in the questionnaire survey.

2. Among the 36 returned questionnaires in the October 2016 survey, only 7 stakeholders were found to have used/imported SCCPs which included 5 laboratories and 2 chemical trading companies. The laboratories consumed a total quantity of about 0.2g of SCCPs as SRM in the period and stored up 4.2g SCCPs at the time of the survey. The total quantities of SCCPs imported by the 2 chemical trading companies in the period were about 5g. There was no record of export of SCCPs in the period.

**TBT**

3. TBT as a pesticide has already been listed in Annex III to the Rotterdam Convention in the 4<sup>th</sup> COP held in 2009, which is being controlled in the HKSAR under the Pesticides Ordinance (Cap. 133). In view of its toxicity, the use of TBT has already been banned / restricted in many countries and we understand that there is currently no use of TBT in industrial processes or shipbuilding in the

HKSAR. TBT is only imported into the HKSAR for trading or used in small quantities in laboratories.

4. A survey was thus conducted in January 2017 through questionnaires to existing and previous permit holders of the Ordinance (81 in total) on their use and trade of TBT in 2014 and 2015. Among the 25 returns received, only 8 laboratories were found to have used TBT. The 8 laboratories consumed a total quantity of about 300g of TBT as SRM in 2014 and 2015 and stored up about 410g of TBT at the time of the survey. No manufacture of TBT or use of TBT in manufacturing processes was found.