

# Proactive Release

Date: 21 January 2022

The following Cabinet papers and related Cabinet minutes have been proactively released by the Minister of Foreign Affairs

Title	Reference
Chemical Weapons (Prohibition) Act 1996 Schedule 1 Annex on Chemicals Update Order Paper Paper 2 LEG-22-MIN-0188 CAB-22-MIN-0507	PR 2022 0507

Proactively Released by the Minister  
of Foreign Affairs



# Cabinet

## Minute of Decision

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*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

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### **Report of the Cabinet Legislation Committee: Period Ended 11 November 2022**

On 14 November 2022, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 11 November 2022:

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LEG-22-MIN-0188

**Chemical Weapons (Prohibition) Act Schedule  
Amendment Order 2022**  
Portfolio: Foreign Affairs

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Proactively Released by the Minister  
Of Foreign Affairs

Rachel Hayward  
Secretary of the Cabinet



# Cabinet Legislation Committee

## Minute of Decision

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### Chemical Weapons (Prohibition) Act Schedule Amendment Order 2022

Portfolio                      Foreign Affairs

On 10 November 2022, the Cabinet Legislation Committee:

- 1        **noted** that on 28 May 2022, the Minister of Foreign Affairs agreed that New Zealand update Schedule 1 of the Annex on Chemicals in the Chemical Weapons (Prohibition) Act 1996 by Order in Council;
- 2        **noted** that the Chemical Weapons (Prohibition) Act Schedule Amendment Order 2022 gives effect to the decision referred to in paragraph 1 above;
- 3        **authorised** submission to the Executive Council of the Chemical Weapons (Prohibition) Act Schedule Amendment Order 2022 [PCO 24843/6.0];
- 4        **noted** that the Order comes into force on 15 December 2022, 28 days after it is notified in the Gazette.

Rebecca Davies  
Committee Secretary

**Present:**

Hon Megan Woods  
Hon Chris Hipkins (Chair)  
Hon Andrew Little  
Hon David Parker  
Hon Nanaia Mahuta  
Hon Michael Wood  
Hon Kiri Allan  
Hon Dr David Clark  
Hon Priyanca Radhakrishnan  
Hon Kieran McAnulty  
Dr Duncan Webb, MP

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG

IN CONFIDENCE

Office of the Minister for Foreign Affairs  
Chair, Cabinet Legislation Committee

## **Chemical Weapons (Prohibition) Act 1996 Schedule 1 Annex on Chemicals Update Order**

### **Proposal**

- 1 This paper proposes that the Cabinet Legislation Committee authorise the submission of the Chemical Weapons (Prohibition) Act 1996 Schedule Amendment Order 2022 (the Order) to the Executive Council.

### **Policy**

- 2 As a State Party to the Chemical Weapons Convention (CWC)<sup>1</sup> and a member of its implementing body the Organisation for the Prohibition of Chemical Weapons (OPCW), Aotearoa New Zealand is required to implement the provisions of the CWC and uphold our obligations under it. This is reflected in the Chemical Weapons (Prohibition) Act 1996 (the Act), administered by the Ministry of Foreign Affairs and Trade (MFAT).
- 3 After the 2018 intentional poisoning events in Salisbury, England, where Russian agents used chemicals that were not listed in Schedule 1 of the CWC, the Conference of the States Parties to the Organisation for the Prohibition of Chemical Weapons (the Conference) at its Twenty-Fourth Session approved, under paragraphs 4 and 5 of Article XV of the CWC, certain changes to Schedule 1 of the CWC (C-24/DEC.4 and C-24/DEC.5, both dated 27 November 2019). These changes were the addition of four chemicals or groups of chemicals enabling scientific reference to the chemical families currently referred to generally as “Novichoks”.
- 4 The Minister of Foreign Affairs agreed to the requisite changes being made to the Act by Order in Council on 28 May 2022. The Act provides for such changes to the Annex being made under section 29(2) (a).
- 5 Schedule 1 of the Annex on Chemicals in the Act will be amended to include the additional chemical groups as agreed by the Conference. The update is administrative in nature and the Act was specifically drafted for such regular updates to occur.
- 6 The draft regulations are attached.

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<sup>1</sup> The CWC prohibits those party to the CWC (a State Party) from, among other things, using, developing, producing, acquiring or retaining chemical weapons and requires those who own or possess chemical weapons to destroy them in accordance with the CWC.

### **Timing and 28-day rule**

- 7 The Order will come into force on 15 December 2022, which will comply with the 28 day rule.

### **Compliance**

- 8 The Order will comply with the following:
- 8.1 the principles of the Treaty of Waitangi;
  - 8.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
  - 8.3 the principles and guidelines set out in the Privacy Act 2020 (if the regulations raise privacy issues, indicate whether the Privacy Commissioner agrees that they comply with all relevant principles);
  - 8.4 relevant international standards and obligations;
  - 8.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

### **Regulations Review Committee**

- 9 There are no identified grounds for the Regulations Review Committee to draw the Order to the attention of the House of Representatives under Standing Order 327.

### **Certification by Parliamentary Counsel**

- 10 The draft regulations were certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

### **Impact Analysis**

- 11 The Treasury's Regulatory Impact Analysis team has determined that this proposal is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.
- 12 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

### **Publicity**

- 13 No publicity is planned to publicise the Order or signature of the Agreement. The update will be notified in the Gazette.

### Proactive release

- 14 This paper will be proactively released as per Cabinet Office Circular CO (18) 4 on the Ministry of Foreign Affairs and Trade's website. The paper will be subject to redaction as appropriate on the grounds set out under the Official Information Act 1982.

### Consultation

- 15 The Bill has been drafted by the Parliamentary Counsel Office, and coordinated by the Ministry of Foreign Affairs and Trade. The Minister for Disarmament and Arms Control and Minister of Customs have been consulted, as have the Treasury and CIPA.

### Recommendations

The Minister for Foreign Affairs recommends that the Committee:

- 1 **note** that on 28 May 2022 the Minister of Foreign Affairs agreed that New Zealand update Schedule 1 of the Annex on Chemicals in the Chemical Weapons (Prohibition) Act 1996 by Order in Council;
- 2 **note** that the Order gives effect to the decision referred to in paragraph 1 above;
- 3 **authorise** the submission of the Chemical Weapons (Prohibition) Act 1996 Schedule Amendment Order 2022 to the Executive Council; and
- 4 **note** that the Order comes into force on 15 December 2022, 28 days after it is notified in the Gazette.

Authorised for lodgement  
Hon Nanaia Mahuta  
Minister for Foreign Affairs

## Chemical Weapons (Prohibition) Act Schedule Amendment Order 2022

### Order in Council

At Wellington this                      day of                      2022

Present:  
in Council

This order is made under section 29(2) of the Chemical Weapons (Prohibition) Act 1996 on the advice and with the consent of the Executive Council.

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### Order

- Title**  
This order is the Chemical Weapons (Prohibition) Act Schedule Amendment Order 2022.
- Commencement**  
This order comes into force on 15 December 2022.



**3 Principal Act**

This order amends the Chemical Weapons (Prohibition) Act 1996.

**4 Schedule amended**

In the Schedule, in the Annex on Chemicals, Part B (Schedules of Chemicals), Schedule 1, Part A (Toxic chemicals), after paragraph (8), insert:

- (13) P-alkyl (H or  $\leq C_{10}$ , incl. cycloalkyl) N-(1-(dialkyl( $\leq C_{10}$ , incl. cycloalkyl)amino)) alkylidene(H or  $\leq C_{10}$ , incl. cycloalkyl) phosphonamidic fluorides and corresponding alkylated or protonated salts
- e.g. N-(1-(di-n-decylamino)-n-decylidene)-P-decylphosphonamidic fluoride (2387495-99-8)
- Methyl-(1-(diethylamino)ethylidene) phosphonamidofluoridate (2387496-12-8)
- (14) O-alkyl (H or  $\leq C_{10}$ , incl. cycloalkyl) N-(1-(dialkyl( $\leq C_{10}$ , incl. cycloalkyl)amino)) alkylidene(H or  $\leq C_{10}$ , incl. cycloalkyl) phosphoramidofluoridates and corresponding alkylated or protonated salts
- e.g. O-n-Decyl N-(1-(di-n-decylamino)-n-decylidene)phosphoramidofluoridate (2387496-00-4)
- Methyl (1-(diethylamino)ethylidene) phosphoramidofluoridate (2387496-04-8)
- Ethyl (1-(diethylamino)ethylidene) phosphoramidofluoridate (2387496-06-0)
- (15) Methyl-(bis(diethylamino)methylene) phosphonamidofluoridate (2387496-14-0)
- (16) Carbamates (quaternaries and bisquaternaries of dimethylcarbamoyloxy pyridines)
- Quaternaries of dimethylcarbamoyloxy pyridines:
- 1-[N,N-dialkyl( $\leq C_{10}$ )-N-(n-(hydroxyl, cyano, acetoxy)alkyl( $\leq C_{10}$ )) ammonio]-n-[N-(3-dimethylcarbamoxy- $\alpha$ -picolinyl)-N,N-dialkyl( $\leq C_{10}$ ) ammonio]decane dibromide (n=1-8)
- e.g. 1-[N,N-dimethyl-N-(2-hydroxy)ethylammonio]-10-[N-(3-dimethylcarbamoxy- $\alpha$ -picolinyl)-N,N-dimethylammonio]decane dibromide (77104-62-2)
- Bisquaternaries of dimethylcarbamoyloxy pyridines:

1,n-Bis[N-(3-dimethylcarbamoxy- $\alpha$ -picolyl)-N,N-dialkyl( $\leq C_{10}$ ) ammonio]-alkane-(2,(n-1)-dione) dibromide (n=2-12)

e.g. 1,10-Bis[N-(3-dimethylcarbamoxy- $\alpha$ -picolyl)-N-ethyl-N-methylammonio]decane-2,9-dione dibromide (77104-00-8)

Clerk of the Executive Council.

### Explanatory note

*This note is not part of the order, but is intended to indicate its general effect.*

This order, which comes into force on 15 December 2022, amends the Chemical Weapons (Prohibition) Act 1996 (the **principal Act**). The Schedule of the principal Act sets out the English text of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, done at Paris on 13 January 1993 (the **Convention**), and includes the Annexes to the Convention.

In 2019, the Conference of the States Parties to the Organisation for the Prohibition of Chemical Weapons approved the addition of 4 chemicals or groups of chemicals to Part A of Schedule 1 of Part B of the Annex on Chemicals.

This order amends the Schedule of the principal Act to insert the names of those 4 chemicals or groups of chemicals into the text of the Annex on Chemicals.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

This order is administered by the Ministry of Foreign Affairs and Trade.