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NATIONAL ENVIRONMENTAL MANAGEMENT ACT 107 OF 1998

PRIOR INFORMED CONSENT PROCEDURE REGULATIONS, 2024

Published under Government Notice 5391 in Government Gazette 51358 on 7 October 2024

I, Dion George, Minister of Forestry, Fisheries and the Environment, hereby in terms of section 25(3) of the National Environmental Management Act, 1998 (Act No. 107 of 1998), publish the Regulations to Domesticate the Requirements of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, as set out in the Schedule hereto.

Signed

DR DION GEORGE

MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

SCHEDULE

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CHAPTER 1

DEFINITIONS, APPLICATION AND PURPOSE OF THE REGULATIONS

1. Definitions

In these Regulations, any word or expression to which a meaning has been assigned in the Act, has that meaning, and unless the context indicates otherwise-

"banned chemical" means a chemical of which all uses within one or more categories have been prohibited in order to protect human health or the environment. It includes a chemical(s) that has been refused approval for the first-time use or that has been withdrawn by industry either from the domestic market or from further consideration in the domestic approval process, and where there is clear evidence that such action has been taken in order to protect human health or the environment;

"chemical" means any substance whether by itself or in a mixture, whether manufactured or obtained from nature, excluding any living organism;

"country of export" means a country from which the transboundary movement of a chemical is planned to be initiated or is initiated;

"country of import" means a country to which a chemical(s) is planned to be transported to or is transported to as a final destination;

"Designated National Authority (DNA)" means an organisation granted responsibility by its national government to authorise and carry out the administrative functions required in terms of these Regulations;

"export" in relation to the Republic, means to take out or transfer, or attempt to take out a chemical(s), from a place within the Republic to another country;

"exporter" means a person who sends or intends to send a chemical(s) from the Republic to another country;

"export notification" means a process whereby a country of export notifies the country of import of its intention to send a chemical(s) to the country of import, and provides information thereon;

"export notification form" is the form contained in Annexure II to these Regulations, that must be used for the purposes of exporting or importing a chemical(s);

"import" in relation to the Republic, means to land on, bring into or introduce a chemical(s) into the Republic;

"importer" means a person who receives or intends to receive a chemical(s) into the Republic or to attempt to land on, bring into or introduce a chemical(s) into the Republic;

"Prior Informed Consent procedure" is a mechanism of formally requesting, obtaining and disseminating information in terms of these Regulations, on a chemical(s), and decisions of the country of import, as to whether a chemical(s) intended to be exported to the country of import, meets the requirements for import, and for ensuring compliance with the decisions by the country of export;

"Rotterdam Convention" means the Convention on the Prior informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, which came into force on 10 September 1998, and includes the Annexes to the Rotterdam Convention, and any amendments to, or substitutions of, those documents that are or will become binding on parties to the Rotterdam Convention;

"safety data sheet" or **"SDS"** means a document that is aligned to the Globally Harmonized System of Classification and Labelling of Chemicals, providing information on hazard classification and properties of hazardous chemicals, amongst other matters, and that is prepared in accordance with regulation 14A of the Regulations for Hazardous Chemical Agents, published under Government Notice R.280, in Government Gazette 44348 on 29 March 2021, in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);

"severely restricted chemical" means a chemical(s) of which virtually all uses within one or more categories have been prohibited by final regulatory action in order to protect human health or the environment, but for which certain specific uses remain allowed. It includes a chemical(s) that has, for virtually all uses, been refused for approval or been withdrawn by industry either from the domestic market or from further consideration in the domestic approval process, and where there is clear evidence that such action has been taken in order to protect human health or the environment;

"South African DNA" means the national Department responsible for the environment; and

"the Act" means the National Environmental Management Act, 1998 (Act No. 107 of 1998).

2. Application and purpose of the Regulations

(1)

(a) These Regulations apply to the banned or severely restricted chemicals listed in Annexure I to the Regulations.

(b) These Regulations do not apply to any of the following:

(i) Narcotic drugs and psychotropic substances regulated by the Drug and Drug Trafficking Act, 1992 (Act No. 140 of 1992), regulating the monitoring of trade on narcotic drugs and drug precursors;

(ii) Radioactive materials and substances as regulated by the Hazardous Substance Act, 1973 (Act No. 15 of 1973) Group IV: Radioactive Substances and Nuclear Energy Act, 1982 (Act No. 82 of 1982), outlining safety standards for the protection of the health of workers and the general public against dangers arising from ionizing radiation;

(iii) Wastes regulated by the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008);

(iv) Chemical weapons regulated by the Non-Proliferation of Weapons of Mass Destruction Act, 1993 (Act No. 87 of 1993) and The Explosives Act, 2003 (Act No. 15 of 2003), that outlines the rules for the control of exports, transfer, brokering and transit of dual-use items;

(v) Pharmaceuticals, including human and veterinary drugs regulated by the Medicines and Related Substance Control Act, 1965 (Act No. 101 of 1965), on medicinal products for human and veterinary use; and

(vi) Chemicals used as food additives regulated by the Foodstuffs, Cosmetics and Disinfectant Act, 1972 (Act No, 52 of 1972), which ensures the verification of compliance with food laws, sets quality and safety standards that governs the manufacture, sale and importation of foodstuffs.

(c) These Regulations do not apply to a chemical(s) to be exported or to be imported that does not exceed 10 kg per calendar year, per country, per chemical(s).

(2) The purpose of these Regulations is to-

(a) implement certain provisions of the Rotterdam Convention for certain hazardous chemicals and pesticides in international trade;

(b) outline the Prior Informed Consent procedure for chemicals listed in Annexure I of these Regulations;

(c) promote shared responsibility and cooperative efforts in the international movement of chemicals in order to protect human health, and/or the environment from potential harm; and

(d) contribute to the environmentally sound use of chemicals by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to other countries.

CHAPTER 2

GENERAL PROHIBITIONS

3. General prohibition

No person may import or export a chemical listed in Annexure I to these Regulations into or from the Republic, without obtaining consent in terms of these Regulations prior to importation or exportation.

CHAPTER 3

PROCESSES FOR THE NOTIFICATION FOR THE IMPORT AND EXPORT OF CHEMICALS

4. Process for the notification of the import of chemicals and decision-making

(1) Any person wishing to import a chemical(s) listed in Annexure I, must ensure a notification in accordance with subregulation (2) is submitted to the South African DNA for consent.

(2) The notification referred to in subregulation (1) must be submitted once per calendar year, per country, to the South African DNA by the DNA of the country of export or any authority responsible for chemicals management, or Commission, or Embassy of the country of export, and must include-

(a) a completed official Rotterdam Convention export notification form, signed by the DNA of the country of export, which must be sent by the country of export or any authority responsible for chemicals management, or Commission, or Embassy of the country of export, to the South African DNA containing as a minimum, the information indicated in Annexure II to these Regulations; and

(b) an SDS for the chemical(s) that is to be imported by the Republic. The chemical(s) must be labelled with information on the risks or hazards that the chemical(s) poses to human health or the environment, or state where the information about the risk or hazard can be obtained.

(3) Upon receipt of the export notification form, the South African DNA will request from the importer an applicable registration certificate or authorisation issued in terms of South African legislation, if any is required.

(4) The South African DNA must send an acknowledgement of receipt of the notification contemplated in subregulation (1), to the DNA of the country of export within 10 working days of receipt of the notification.

(5) Subsequent to the issuing of an acknowledgement contemplated in subregulation (4), and acknowledgement of the chemical consignment contemplated in subregulation (7)(b), the South African DNA must process the completed notification contemplated in subregulation (1) with the inclusion of the requirements in subregulation (3), within 10 working days after acknowledgement in terms of sub-regulation (4).

(6) The South African DNA must-

(a) issue a decision to grant consent, with conditions as stated in the export notification, contemplated in subregulation (2); or

(b) deny consent, stating reasons,

within 10 working days of the issuing of the acknowledgement contemplated in subregulation (4).

(7) The decision to grant consent or to deny consent will be based on-

(a) availability of the licence, permit or registration certificate from the competent authority contemplated in subregulation (3), for use of the chemical in the country, if applicable, and

(b) acknowledgement of the chemical consignment by the importer.

(8) If the cumulative amount of the chemical to be imported is going to exceed the quantity of the original notification, for which consent was provided, for the calendar year, per country, irrespective of the number of consignments, an additional notification must be submitted by the DNA of the country of export or any authority responsible for chemicals management, or Commission, or Embassy of the country of export to the South African DNA, as contemplated in subregulation (1).

5. Process for the notification of the export of chemicals

(1) Any person wishing to export a chemical listed in Annexure I, must submit a notification to the South African DNA for further submission to the importing DNA for consent.

(2) The notification referred to in subregulation (1) must be submitted once per calendar year, per country, to the South African DNA by the person wishing to export a chemical, as contemplated in subregulation (1), and must include-

(a) a completed official Rotterdam Convention export notification form contained in Annexure II to these Regulations and also obtainable from the South African DNA, containing as a minimum, the information indicated in Annexure II to these Regulations; and

(b) an SDS for the chemical(s) that is to be exported. The chemical(s) must be labelled with information on the risks or hazards that the chemical(s) poses to human health or the environment, or state where the information about the risk or hazard can be obtained.

(3) The South African DNA must send an acknowledgement of receipt of the notification contemplated in subregulation (1) to the person that submitted the notification for consent for export, within 10 working days of receipt of the notification.

(4) Subsequent to the issuing of an acknowledgement contemplated in subregulation (3), the South African DNA must within 10 working days-

(a) consider whether the notification received from the person contemplated in subregulation (1), includes the requirements referred to in subregulation (2)(a) and (b) and request further information or documents where required; and

(b) submit the export notification to the DNA of the country of import or any authority responsible for chemicals management, or Commission, or Embassy of the country of import, for consideration,

(5) If the DNA of the country of import issues consent to the South African DNA following submission of the export notification referred to in subregulation (4)(b), the South African DNA must issue the consent issued by the DNA of the country of import to the person contemplated in subregulation (1) within 10 working days.

(6) If the South African DNA has not received a response from the DNA of the country of import within 10 working days from submission contemplated in subregulation (4)(b), the South African DNA must immediately send a reminder to the DNA of the country of import.

(7) If there is stili no response after 10 working days from the date of the reminder contemplated in subregulation (6), the South African DNA must inform the person contemplated in subregulation (1). If, after all reasonable efforts have been made, and no response to a notification contemplated in subregulation (4)(b) has been received, then the export may proceed.

(8) If the cumulative amount of the chemical to be exported is going to exceed the quantity of the original notification for which consent was provided, for the calendar year, per country, irrespective of the number of consignments, an additional notification must be submitted to the South African DNA for further submission to the importing DNA, by the exporter as contemplated in subregulation (2).

CHAPTER 4

RECORD KEEPING AND REPORTING

6. Records of chemicals imported or exported

(1) An importer or exporter of a chemical(s) listed in Annexture I to these regulations must keep accurate and up to date records that reflect-

(a) The actual quantities of the chemical(s) imported or exported;

(b) the origin or source of the chemical(s);

(c) the actual use or application of the chemical(s) imported, or declaration of the intended end use or application if the importer is supplying to another person; and

(d) the date of import or export.

(2) The declaration referred to in subregulation (1)(c) must contain:

(a) The full name and identity number of the person the importer is supplying if the person is a natural person, or the full registered business name and registration number if the person is a juristic person, as well as a

certified copy of the identity or registration document of the person, as the case may be;

(b) telephonic and electronic mail contact details of the person contemplated in paragraph (a); and

(c) the end use of the chemical(s).

7. Reporting or submission of information

(1) The importer or exporter of a chemical(s) listed in Annexture I to these regulations, must submit, annually, at the end of March every year, the following information to the South African DNA:

(a) actual quantities of the chemical(s) imported or exported; and

(b) customs import and export declaration documents for every consignment of chemicals.

(2) The records contemplated in regulation 6(1) and subregulation (1), must be-

(a) retained for a period of at least five years; and

(b) made available, on a confidential basis, to the South African DNA upon request.

CHAPTER 5

GENERAL MATTERS

8. Offences

A person commits an offence, if that person contravenes or fails to comply with regulations 3, 4(1), 4(8), 5(1), 5(8), 6 and 7 of these Regulations.

9. Penalties

A person convicted of an offence under these Regulations is liable to-

(a) a fine not exceeding five (5) million Rand or to imprisonment for a period not exceeding five (5) years in the case of a first offence; and

(b) in the case of a second or subsequent conviction, a fine not exceeding ten (10) million Rand or to imprisonment for a period not exceeding (ten) 10 years,

or in both instances, to both such fine and such imprisonment.

10. Updating of Annexures

The List of chemicals in Annexure I to these Regulations will be reviewed by the South African DNA at least every two (2) years having regard to developments under the Rotterdam Convention.

11. Information to be transmitted to the Rotterdam Convention Secretariat

(1) The South African DNA will notify the Rotterdam Convention Secretariat in writing, when a new final regulatory action is taken or is amended, as soon as possible after the adoption or the promulgation of the new final regulatory action, and no later than 60 days after the date on which the new final regulatory action is to be implemented.

(2) In the case of chemicals listed in Annexure I to these Regulations, the South African DNA will provide the Rotterdam Convention Secretariat with information concerning the relevant final regulatory action, so that the information can be disseminated to other Parties to the Rotterdam Convention as appropriate.

12. Repeal of Laws

The Regulations to Domesticate the Requirements of the Rotterdam Convention, as published under Government Notice R.413 in Government Gazette 44558 on 12 May 2021, the Regulations to Domesticate the Requirements of the Rotterdam Convention, as published under Government Notice R.3072 in Government Gazette 48098 on 21 February 2023, and the Extension Notice published under Government Notice R.4204 in Government Gazette No. 49892 on 14 December 2023 are hereby repealed.

13. Short Title and Commencement

These Regulations are called the Prior Informed Consent Procedure Regulations, 2024.

These Regulations will commence 120 days from the date of their publication for implementation in the Government Gazette.

ANNEXURE I

LIST OF CHEMICALS CONTROLLED UNDER THESE REGULATIONS

(LIST OF CHEMICALS SUBJECT TO THE PIC PROCEDURE UNDER THE ROTTERDAM CONVENTION)

Chemical		**Relevant CAS number(s)**	**HS Codes (Pure chemicals)**
1.	2,4,5-trichlorophenoxyacetic acid and its salts and esters	93-76-5	2918.91
2.	Alachlor	15972-60-8	2924,25
3.	Aldicarb	116-06-3	2930.80.10
4.	Aldrin	309-00-2	2903.52
5.	Asbestos Fibres:	1332-21-4 and other	
	Asbestos Actinolite	77536-66-4	2524.90
	Asbestos Amosite	12172-73-5	2524.90
	Asbestos Anthophyliite	77536-67-5	2524.90
	Asbestos Crocidolite	12001-28-4	2524.90
	Asbestos Tremolite	77536-68-6	25.24.90
6.	Azinphos-methyl	86-50-0	2933.99
7.	Binapacryl	485-31-4	2916.19
8.	Captafol	2425-06-1	2930.80.20
9.	Carbofuran	1563-66-2	
10.	Chlordane	57-74-9	2903.52
11.	Chlordimeform	6164-98-3	2925.21
12.	Chlorobenzilate	510-15-6	2918.18
13.	Commercial Octabromodiphenyl ether including:		
	Hexabromodiphenyl ether	36483-60-0	2909.30
	Heptabromodiphenvl ether	68928-80-3	2909.30
14.	Commercial pentabromodiphenvl ether, including;		
	TetrabromodiPhenyl ether	40088-47-9	2909.30
	Pentabromodiphenyl ether	32534-81-9	2909.30
15.	Dichlor-diphenyltrichloroethane (DDT)	50-29-3	2903.92.10
16.	Dieldrin	60-57-1	2910.40
17.	Dinitro-ortho-cresol (DNOC) and its salts:	497-56-3	2908.92
	DNOC, ammonium salt	2980-64-5	2908.99
	DNOC, potassium salt	5787-96-2	
	DNOC, sodium salt	2312-76-7	
	DNOC	534-52-1	
18.	Dinoseb and its salts and esters	88-85-7	2908.91
19.	Dinoseb acetate	2813-95-8	2915.36
20.	Dustable powder formulations containing a combination of:		
	Benomyl at or above 7 percent	17804-35-2	
	Carbofuran at or above 10 percent	1563-66-2	
	Thiram at or above 15 per cent	137-26-8	
21.	Endrin	72-20-8	
22.	Endosulfan Technical Endosulfan and its related isomers	115-29-7	2920.30

23.	Ethylene dibromide (EDB) 1,2-dibromoethane	106-93-4	2903.31
24.	Ethylene dichloride (1,2-dichloroethane) (EDC)	107-06-2	2903.15

Chemical		**Relevant CAS number(s)**	**HS Codes (Pure chemicals)**
25.	Ethylene oxide	75-21-8	2910.10
26.	Fluoroacetamide	640-19-7	2924.12.20
27.	Heptachlor	76-44-8	2903.82.30
28.	Hexabromobiphenvl	36355-01-8	
29.	Hexabromocydododecane	25637-99-4 3194-55-6 134237-50-6 134237-51-7 134237-52-8	
30.	Hexa chlorobenzene	118-74-1	2903.92
31.	Hexachlorobutadiene	87-68-3	
32.	Hexachlorocyclohexane (HCH) (mixed isomers) Alpha - HCH and Beta-HCH	608-73-1	3824.85 2903.51
33.	Lindane (gamma-HCH) and (gamma- BHC)	58-89-9	2903.81.10
34.	Mercury compounds, including inorganic mercury compounds, alkyl mercury compounds, and alkyloxyaikyl and aryl mercury compounds-containing compounds	7439-97-6 - containing 62-38-4 26545-49-3 And other	2852.10
35.	Methamidophos	10265-92-6	2930.80 30
36.	Methyl-parathion (Emulsifiable concentrates (EC) at or above 19.5%	298-00-0	2920.11.01 2920.11.02
	active ingredient and dusts at or above 1.5% active ingredient)		2920.11.03 2920.11.04 2920.11.05 2920.11.06 2920.11.07
37.	Monocrotophos	6923-22-4	2924.12,30
38.	Parathion	56-38-2	2920.11.09
39.	Pentachlorobenzene	608-93-5	
40.	Pentachlorophenol and its salts and esters	87-86-5	2908.91
41.	Perfluorooctane sulfonic acid	1763-23-1	2904.31
	Potassium perfluorooctane sulfonate	2795-39-3	2904.34
	Lithium perfluorooctane sulfonate	29457-72-5	2904.33
	Ammonium perfluorooctane sulfonate	29081-56-9	2904.32

	Diethanolammonium perfluorooctane sulfonate	70225-14-8	2922.16
	Tetraethylammonium perfluorooctane sulfonate	56773-42-3	2923.30
	Didecyldimethylammonium perfluorooctane sulfonate	251099-16-8	2923.40
	N-Ethylperfluorooctane sulfonamide	4151-50-2	2935.20
	N-Methylperfluorooctane sulfonamide	31506-32-8	2935.10
	N-ethyl-N-(2-hydroxyethyl) perfluorooctane sulfonamide	1691-99-2	2935.30
	N-(2-hydroxyethyl)-Nmethylperfuorooctane sulfonamide	24448-09-7	2935.40
	Perfluorooctane sulfonyl fluoride	307-35-7	2904.36

Chemical		**Relevant CAS number(s)**	**HS Codes (Pure chemicals)**
42.	Phoshamidon (soluble liquid formulations of the substance that exceed 10OOg active ingredients/l)		
	Mixture (E) & (Z) isomers	13171-21-6	2924.12
	(Z) -isomers	23783-98-4	2924.12
	(E)-isomers	297-99-4	2924.12
43.	Phorate	298-02-2	
44.	Polybrominated biphenyls (PBB)		
	Hexa	36355-01-8	2903.94
	Octa	27858-07-7	2903.99
	Deca	13654-09-6	2903.99
45.	Polychlorinated Biphenyls (PCBs)	1336-36-3	2903.99.20 2710.91
46.	Polychlorinated naphthalenes including:		
	Dechlorinated naphthalenes		
	Trichlorinated naphthalenes		
	Tetrachlorinated naphthalenes		
	Pentachlorinated naphthalenes		
	Hexachlorinated naphthalenes		
	Heptachlorinated naphthalenes		
	Octachlorinated naphthalenes		
47.	Polychlorinated terphenyls (PCT)	61788-33-8	
48.	Short-chain chlorinated paraffins (SCCP)	85535-84-8	2903.19.13
49.	Terbufos	13071-79-9	
50.	Tetraethyl lead	78-00-2	2931.10
51.	Tetramethyl lead	75-74-1	2931.10
52.	Toxaphene iCamphechon	8001-35-2	3824.84
53.	Tributyltin compounds:		
	Tributyltin benzoate	4342-36-3	2931.20
	Tributyltin chloride	1461-22-9	
	Tributyltin fluoride	1983-10-4	
	Tributyltin linoleate	24124-25-2	
	Tributyltin methacrylate	2155-70-6	

	Tributyltin naphthenate	85409-17-2	
	Tributyltin oxide	56-35-9	
54.	Trichlorfon	52-68-6	-
55.	Trisi2,3-dibromopropyl) phosphate	126-72-7	2919.10

ANNEXURE II

ROTTERDAM CONVENTION

FORM FOR EXPORT NOTIFICATION