

**Senate Community Affairs Committee**

ANSWERS TO ESTIMATES QUESTIONS ON NOTICE

HEALTH PORTFOLIO

**Supplementary Budget Estimates 2014 - 2015, 22 October 2014**

**Ref No:** SQ14-001124

**OUTCOME:** 7 - Health Infrastructure, Regulation, Safety and Quality

**Topic:** Cosmetics Testing

**Type of Question:** Written Question on Notice

**Senator:** Rhiannon, Lee

**Question:**

- a) What discretionary powers are held by NICNAS to modify data requirements set out in the relevant Schedule/s of the ICNA Act in the case of cosmetic ingredients already in use as cosmetic ingredients outside Australia, for example in the EU?
- b) Please provide examples of NICNAS doing this.

**Answer:**

- a) Section 24 of the *Industrial Chemicals (Notification and Assessment) Act 1989* (ICNA Act) confers a discretionary power on the Director of the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) to vary scheduled data requirements where (relevant to question (a)):
  - the cosmetic ingredient is a 'new industrial chemical' under the ICNA Act; and
  - a person applies for an assessment certificate to introduce (import or manufacture in Australia) that chemical, under s 23 of the ICNA Act.

The specific circumstances in which the Director may exercise his discretion under s 24 to waive or vary data requirements are:

1. Under s 24(1), the Director may waive data requirements if:
  - a) the chemical is already listed in one or more of the international inventories listed in Reg 7 of the ICNA Regulations. The international inventories currently listed in Reg 7 are:
    - European Inventory of Existing Commercial Chemical Substances (EINECS) issued by the Commission of European Communities;
    - List of Existing Chemical Substances issued by the Ministry of International Trade and Industry, Japan;
    - Existing Chemicals List issued by the Ministry of Labour, Japan;
    - Toxic Substances Control Act (TSCA) Chemical Substance Inventory issued by the U.S. Environmental Protection Agency; and
  - b) the Director is satisfied that because of the overseas listing, adequate information is available about particular matters that would otherwise be required to be addressed in the application for an assessment certificate.

2. Under ss 24(2)-(4), the Director may vary data requirements for the introduction of a new industrial chemical, whether or not the chemical is already in use outside of Australia, if the Director is satisfied:
  - that the introduction of the chemical is not against the public interest, and the chemical can be assessed adequately under the ICNA Act (either without the omitted data or with substituted data); or
  - that the particular matters are irrelevant, or unnecessary, for the assessment of the chemical.
  
- b) There are no known examples of the NICNAS Director modifying data requirements solely on the basis that the chemical is already in use as a cosmetic ingredient outside of Australia.