

**REPLIES TO QUESTIONNAIRE ON IMPORT LICENSING PROCEDURES<sup>1</sup>**

Notification under Article 7.3 of the  
Agreement on Import Licensing Procedures

NEW ZEALAND

The following notification, dated 12 October 2012, is being circulated at the request of the delegation of New Zealand.

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<sup>1</sup> See G/LIC/3, Annex, for the Questionnaire.

## I. ANTI-PERSONNEL MINES

The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 1997 (the Convention), is implemented in New Zealand through the: *Anti-Personnel Mines Prohibition Act 1998*.

### Outline of Systems

1. The *Anti-Personnel Mines Prohibition Act 1998* prohibits the import of all anti-personnel landmines, except for anti-personnel mines to be used, developed, produced, otherwise acquired, possessed, retained, imported or exported for the purposes of developing, or training persons in, techniques of mine detection, mine clearance, mine deactivation, or mine destruction.

### Purposes and Coverage of Licensing

2. (a) The Minister of Foreign Affairs may, by notice in writing, authorise anti-personnel mines to be used, developed, produced, otherwise acquired, possessed, retained, imported or exported for the purposes of developing, or training persons in, techniques of mine detection, mine clearance, mine deactivation, or mine destruction.

(b) **Anti-personnel mine**

(i) means a mine designed to be exploded by the presence, proximity, or contact of a person, and that is capable of incapacitating, injuring, or killing 1 or more persons; but

(ii) does not include a mine designed to be detonated by the presence, proximity, or contact of a vehicle as opposed to a person and equipped with an anti-handling device.

3. The system applies to goods originating in and coming from "all" countries.

4. The system is designed to meet the requirements of the Convention by the restricting the quantity of anti-personnel mines imported to those required for the purposes of developing, or training persons in, techniques of mine detection, mine clearance, mine deactivation, or mine destruction. The Minister of Foreign Affairs must specify, by notice in the *Gazette*, the number of anti-personnel mines determined by the Minister to be the number that, for the time being, are absolutely necessary for the purposes described above.

5. The *Anti-Personnel Mines Prohibition Act 1998* prohibits the import of all anti-personnel landmines, except for anti-personnel mines to be used, developed, produced, otherwise acquired, possessed, retained, imported or exported for the purposes of developing, or training persons in, techniques of mine detection, mine clearance, mine deactivation, or mine destruction.

The licensing is statutorily required, and the legislation does not leave designation of products to be subjected to licensing to administrative discretion (see answer to Q2 (i) above).

Is it not possible for the government (or the executive branch) to abolish the system without legislative approval.

### Procedures

6. Importers must seek the approval of the Minister of Foreign Affairs, who must then give notice in writing as per 2 1. above.

- I. The Minister of Foreign Affairs must specify, by notice in the *Gazette*, the number of anti-personnel mines determined by the Minister to be the number that, for the time being, are absolutely necessary for the purposes of developing, or training persons in, techniques of mine detection, mine clearance, mine deactivation, or mine destruction.
  - II. Volume quotas do not apply.
  - III. Not applicable.
  - IV. Not applicable.
  - V. There are no minimum or maximum times for processing applications.
  - VI. There is no minimum or maximum time.
  - VII. Consideration of applications is effected on the whole by a single administrative organ (the Ministry of Foreign Affairs and Trade, New Zealand). However, applications may be referred as required to other agencies for technical advice when assessing the stated purpose of the import, the capabilities of the importer to effect the stated purpose, and security assessments around the storage, use and disposal of the anti-personnel mines.
  - VIII. The Minister of Foreign Affairs determines the number of anti-personnel mines required to meet any exceptions to the Act. Should an application have merit then the Minister could adjust the gazetted number of mines permitted in the country.
  - IX. Not applicable.
  - X. Not applicable.
  - XI. No.
7. (a) Not applicable.
- (b) Not applicable. Those importing anti-personnel mines inadvertently could face prosecution.
- (c) No.
- (d) Not applicable.
8. None. Although there is no statutory right of administrative appeal against any of the decisions by the Minister, applicants could seek a judicial review of an administrative decision through the courts.

**Eligibility of Importers to Apply for Licence**

9. (a) Yes.
- (b) Not applicable.

**Documentational and Other Requirements for Application for Licence**

10. There are no specifically listed information requirements. Applicants would need to make a case to the Minister of Foreign Affairs for the importation of anti-personnel mines in conformance

with the stated exemptions outlined in the *Anti-Personnel Mines Prohibition Act 1998*, and provide relevant details around type, quantity, storage and ultimate disposal.

11. Authorisation from the Minister of Foreign Affairs to import and designation by the Minister as an officer authorised to be in possession of anti-personnel mines as defined in the *Anti-Personnel Mines Prohibition Act 1998*. An import entry clearance would need to be completed with Customs before release of the goods.

12. There are no administrative charges for the process of obtaining permission to import anti-personnel mines.

13. Not applicable.

### **Conditions of Licensing**

14. There is no set period of validity for an approval to import. It is possible a period of validity could be specified at the time of approval by the Minister of Foreign Affairs.

15. No.

16. No.

17. No, other than compliance with the *Anti-Personnel Mines Prohibition Act 1998*.

### **Other Procedural Requirements**

18. No.

19. Not applicable.

## **II. CHEMICAL WEAPONS**

The Chemical Weapons Convention (CWC) is implemented in New Zealand through the Chemical Weapons (Prohibition) Act 1996.

### **Outline of Systems**

1. The *Chemical Weapons (Prohibition) Act 1996* prohibits the import of all CWC scheduled chemicals, unless permission is granted in writing (an import permit is granted) by the Ministry of Foreign Affairs and Trade.

### **Purposes and Coverage of Licensing**

2. (a) **CWC Schedule 1 chemicals:** these are the most toxic and tightly controlled chemicals, primarily consisting of military chemical warfare nerve, blister, choking, or blood agents, including sarin and its near relations.

(b) **CWC Schedule 2A toxic chemicals and 2B precursor chemicals:** these are dual-use chemicals, more commonly used and traded for routine commercial purposes in New Zealand. All Schedule 2A chemicals are controlled. A Schedule 2B chemical is controlled if:

- it constitutes more than 10% (by weight) of a mixture, OR
- if the mix contains more than one Schedule 2 or Schedule 3 chemical.

- (c) **CWC Schedule 3A toxic chemicals and 3B precursor chemicals:** these are dual-use chemicals, more commonly used and traded for routine commercial purposes. A Schedule 3A or 3B chemical is controlled if:
- it constitutes more than 10 per cent (by weight) of a mixture, OR
  - if the mix contains more than one Schedule 2 or Schedule 3 chemical.

All scheduled chemicals are listed on the OPCW website, [www.opcw.org](http://www.opcw.org).

3. The system applies to goods originating in and coming from "all" countries. The CWC prohibits the transfer of Schedule 1 and 2 chemicals to countries/territories which are not party to the CWC. A full list of countries/territories party to the CWC are listed on the OPCW website [www.opcw.org](http://www.opcw.org).

4. The licensing of CWC chemical imports is not intended to restrict the quantity or value of imports, but to meet the requirements of the CWC, i.e. *the CWC aims to eliminate an entire category of weapons of mass destruction by prohibiting the development, production, acquisition, stockpiling, retention, transfer, or use of chemicals weapons by States Parties. States Parties in turn must take the steps necessary to enforce that prohibition in respect of persons (natural or legal) within their jurisdiction.*

5. The *Chemical Weapons (Prohibition) Act 1996* prohibits the import of all Chemical Weapons Convention (CWC) scheduled chemicals, unless permission is granted in writing (an import permit is granted) by the Ministry of Foreign Affairs and Trade.

The licensing is statutorily required, and the legislation does not leave designation of products to be subjected to licensing to administrative discretion (see answer to Q2 above).

It is not possible for the government (or the executive branch) to abolish the system without legislative approval.

### **Procedures**

6. Not applicable. Information concerning scheduled chemicals and how to apply for an import licence to enter New Zealand is published on the Ministry of Foreign Affairs and Trade, New Zealand's website: <http://mfat.govt.nz/Trade-and-Economic-Relations/3-Export-controls/92-Chemical-Imports/index.php> together with more detailed information on the application procedure.

7. (a) The Ministry of Foreign Affairs and Trade, New Zealand endeavours to process all applications within 10-working days. Application for the import of CWC **Schedule 1** Chemicals must be received by the Ministry of Foreign Affairs and Trade, New Zealand at least 37 days prior to the anticipated shipment date. Advance notification is required because the transfer must be notified to the Organisation for the Prevention of Chemical Weapons (OPCW) which implements the CWC internationally, at least 30 days in advance. Licences can be obtained within a shorter time-limit if required.

(b) Not immediately, but depending on circumstances, a licence can be provided within 24 hours of application.

(c) No.

(d) Consideration of licence applications is effected by a single administrative organ.

8. Specific CWC requirements prohibit the re-transfer of **Schedule 1** chemicals. In practice this means that **Schedule 1** chemicals imported into New Zealand may not be retransferred to a third country. In these circumstances an import licence would be declined. If Schedule 2 and 3 chemicals were imported for retransfer and if it is assessed that there is an unacceptable risk the chemicals may be diverted to a chemical weapons programme, then the application to import would be declined.

Authority for granting approval for the import of CWC Scheduled Chemicals rests with the Secretary of Foreign Affairs and Trade. Although there is no statutory right of administrative appeal against any of the decisions by the Secretary, applicants could seek a judicial review of an administrative decision through the courts.

#### **Eligibility of Importers to Apply for Licence**

9. (a) Not applicable.

(b) Not applicable.

#### **Documentational and Other Requirements for Application for Licence**

10. Importers are required to ensure full details of chemicals to be imported are provided, including the correct name, mixture weight/analysis breakdown and, if possible, CAS (Chemical Abstracts Service) number and the intended use of the chemicals. Details of CWC Schedules of Chemicals (1-3) can be found on our website <http://mfat.govt.nz/Trade-and-Economic-Relations/3-Export-controls/92-Chemical-Imports/index.php> together with more detailed information on the application procedure. Completed documents should be sent to fax +64 4 439 8519, or by email to [exportcontrols@mfat.govt.nz](mailto:exportcontrols@mfat.govt.nz).

11. Import Permit from the Ministry of Foreign Affairs and Trade, New Zealand.

12. There is no charge for the processing of import permits.

13. Not applicable.

#### **Conditions of Licensing**

14. The period of validity of a license is 3 months after the licence has been issued. Extensions to import licences can be granted when an import does not fall within the usual 3-month period, by applying to the Ministry of Foreign Affairs and Trade, New Zealand

15. No, but the applicant must inform the Ministry of Foreign Affairs and Trade, New Zealand in writing if the actual quantity imported is less than that approved, or if the import does not take place.

16. No.

17. No.

#### **Other Procedural Requirements**

18. No – not from the Ministry of Foreign Affairs and Trade, New Zealand. Some chemicals may constitute hazardous substances and could be required to comply with the Hazardous Substances and New Organisms (HSNO) Act 1996 and supporting regulations.

19. Not applicable to the Ministry of Foreign Affairs and Trade, New Zealand.

### **III. CONTROLLED DRUGS**

Misuse of Drugs Act 1975 and Misuse of Drugs Regulations 1977

#### **Outline of Systems**

1. New Zealand is a party to the Single Convention on Narcotic Drugs 1961 (the Convention) and the Convention on Psychotropic Substances 1971. The purpose of the conventions is to have single international treaties concerned with the control of narcotic drugs and the production of raw materials of narcotic drugs and similar international control of psychotropic substances. Both narcotics and psychotropic drugs are classified as Controlled Drugs in New Zealand under the Misuse of Drugs Act 1975 ("The Act"). Psychotropic substances include barbiturates and benzodiazepines and some non-medicinal substances such as LSD.

The International Narcotics Control Board (INCB) monitors the compliance with the provisions of the conventions. The conventions set requirements for member countries with respect to regulatory provisions, reporting requirements and quotas.

Importing and exporting of controlled drugs and psychotropics requires an import or export licence to be issued prior to the shipment of drugs entering or leaving New Zealand. Applications are submitted to the Medicines Control section of the Ministry of Health. Licences are issued for medicinal (human consumption/veterinary use), scientific (including analysis for law enforcement) or drug detector training purposes only.

A Licence to Deal in Controlled Drugs or a Licence to Possess Controlled Drugs, or authorisation under Act (e.g. a registered medical practitioner), is required under the regulations before the issuance of licences to import or export controlled drugs.

#### **Purposes and Coverage of Licensing**

2. Import and export licensing of controlled drugs listed in Schedules 1, 2, 3 (excluding part 6) & 4 Part 3.1 of the Misuse of Drugs Act 1975. Licensing of importers and exporters to deal in Controlled Drugs.
3. The system applies to goods originating in and coming from all countries.
4. Licensing is intended to restrict the quantity of imports to quota issued by the INCB. The INCB administers a system of estimates for narcotic drugs and a voluntary assessment system for psychotropic substances and monitors licit activities involving drugs through a statistical returns system. It aims to assist Governments in achieving a balance between supply and demand of these substances. As a signatory to the conventions no alternative methods are permissible.
5. The law under which licensing is maintained is the Misuse of Drugs Act 1975 and the Misuse of Drugs Regulations 1977. The schedules to the Act define the class of controlled drug. All controlled drugs require import and export licences and licences to deal or possess, or authorisation within the Act.

Regulation 4 covers the requirements for deal licences.

Regulation 7 covers the issuance of import and export licences.

Regulation 9 applies if a person, employed at a field research station or laboratory, wishes to be in possession of controlled drugs.

Other legislation applicable to import/export of controlled drugs and dealing with controlled drugs are sections 6, 7 and 8 of the Act.

Licensing is statutorily required and there is no administrative discretion as to the products to be subjected to licensing. The legislation defines the restrictions applicable to drugs listed in each schedule to the Act. It is not possible for the government (or the executive branch) to abolish the system without legislative approval.

### **Procedures**

- 6.I Quota for the import of controlled drugs can be viewed at [www.incb.org](http://www.incb.org). International competent health authorities (the authority responsible for administration of the regulatory regime in that country) are advised to check their quota status regularly online. Licensed importers can also view quota on this site. Quota is set for the country; not for specific importers.
- II. Quota is established on a yearly basis, running from 1 January – 31 December each year. The size of quota is determined by the stock on hand as of 31 December each year as well as previous, current and projected consumption. Supplementary quota can be applied for from INCB, if required, during the year. Licences are issued per consignment. Importers are required to apply for a licence every time they wish to import and export. Import and export licences must be used within six months from the date of issue.
- III. Licences are endorsed by the appropriate authority as they are used and returned to Medicines Control or competent authority of the country of export. On return of the endorsed licences, databases are updated to provide statistics for quarterly and yearly reporting of the movement of controlled drugs. Unused allocations cannot be rolled over into the next year. Licences cannot be used multiple times.
- IV. Applications are demand driven. Applications can be made at any time.
- V. All completed and accurate applications (within the quota limit) are issued within 30 working days of submission.
- VI. An importation may be made as soon as the import licence is issued and the competent authority in the country of export has issued the appropriate authorisation/licence.
- VII. Importers only have to approach the controlled drug advisor Medicines Control to obtain an application form for a licence to import. The granting of licences is under the auspices of the Licensing Authority, Medicines Control, Ministry of Health. Where applicable, Agricultural Compounds and Veterinary Medicines (ACVM) is consulted on importations for veterinary controlled drugs. Ministerial approval is necessary for the import or export of controlled drugs listed in schedule 1 and many listed in schedule 2 of the Act. Import licences are only issued on the production of an authentic export licence or authorisation, issued by the health authority in the country of export. International competent authorities are contacted if further information is required.
- VIII. Applications are examined and processed on receipt. If the application exceeds the current quota, there will be a delay while extra quota is requested from the INCB. Generally extra quota is allowed as long as it can be justified by a licit purpose.
- IX. Competent authorities in other countries that are signatories to the INCB Conventions require an import licence issued by New Zealand before exporting from their country.



- X. The importing country is informed of the effect given by the exporting country by the transfer of the appropriate copies of standardised import and export licensing forms required by INCB for signatories to the convention.
- XI. There are no products for which licences are issued on the condition that the goods will be exported and not sold on the domestic market.
7. The conventions place a quantitative limit on all controlled drugs imported.
- (a) Not applicable.
- (b) Not applicable.
- (c) Not applicable.
- (d) Not applicable.
8. The most common reason for refusal is that the importer is not authorised to import/licensed to deal in New Zealand. The reason for refusal is advised and an application form for a deal licence outlining the requirements for a licence may be provided if appropriate. Licences must be issued prior to the arrival or exit of goods. Licences to import are only issued retrospectively if there are strong reasons for doing so, for example an impending national shortage of a drug.

#### **Eligibility of Importers to Apply for Licence**

- 9.(a) The importation of controlled drugs only operates under a restrictive system as required by the international conventions. Only importers with a Licence to Deal in Controlled Drugs, or a Licence to Possess Controlled Drugs, or authorisation under Act (e.g. a registered medical practitioner) are eligible to apply for licences.
- (b) Not applicable.
- (c) Not applicable.

#### **Documentational and Other Requirements for Application for Licence**

10. Sample of application for an import licence provided.
11. The export licence copy must accompany the goods across the border and match up with the import licence copy.

Licences to import (and export) are issued in quintuplicate. Each copy has a specific purpose as listed on the bottom of the copy and must be retained or forwarded to the appropriate authority.

Original copy: Licensee to forward to the exporter for presentation to the Authorities in the country of export.

Duplicate copy: New Zealand Customs to complete "Import Certification".

TriPLICATE copy: Importer to complete "Importer's Certification".

Quadruplicate: Importer's copy.

Quintuplicate: Copy retained by Ministry of Health.

12. The fee for an import or export application is \$194.22. Up to four controlled drugs or different strengths of controlled drugs may be listed on one import or export application.

13. Payment in full is required prior to the issuing of licence. The fee is not refundable if an import or export licence expires.

### **Conditions of Licensing**

14. An import or export licence is valid for 6 months from the date of issue. No extensions can be given.

15. No.

16. No.

17.(a) The standard conditions on an import licence are:

- That the goods must be imported before the expiry date of .....(6 month time frame from date of issue);
- That the controlled drugs are to be utilised for medical, scientific, or dog training purposes only.

Other conditions that the Licensing Authority may deem necessary can be added to a licence.

(b) Not applicable.

### **Other Procedural Requirements**

18. Yes, importer must have a Licence to Deal in or Licence to Possess Controlled Drugs, or be authorised to possess controlled drugs under the Act.

19. Not applicable. Licence to import is issued to a New Zealand entity.

## **IV. CLUSTER MUNITIONS**

The Convention on Cluster Munitions, 2008, is implemented in New Zealand through the: *Cluster Munitions Prohibition Act 2009*.

### **Outline of Systems**

1. The *Cluster Munitions Prohibition Act 2009* prohibits the import of all cluster munitions, except for cluster munitions to be used, developed, produced, otherwise acquired, possessed, retained, imported or exported for the purposes of developing, or training persons in, techniques of cluster munitions detection, clearance, deactivation, or destruction.

### **Purposes and Coverage of Licensing**

2.(a) The Minister of Foreign Affairs may, by notice in writing, authorise cluster munitions to be used, developed, produced, otherwise acquired, possessed, retained, imported or exported for the purposes of developing, or training persons in, techniques of cluster munitions detection, clearance, deactivation, or destruction.

- (b) A **cluster munition** means a conventional munition that is designed to disperse or release explosive submunitions each weighing less than 20 kilograms and
- (i) includes those explosive submunitions; but
  - (ii) does not include
    - a mine; or
    - a munition or submunition that is designed:
      - to dispense flares, smoke, pyrotechnics, or chaff; or
      - to produce electrical or electronic effects; or
    - a munition that is designed exclusively for an air defence role; or
    - a munition that, in order to avoid indiscriminate effects and the risks posed by unexploded submunitions, has all of the following characteristics:
      - each munition contains fewer than 10 explosive submunitions;
      - each explosive submunition weighs more than 4 kilograms;
      - each explosive submunition is designed to detect and engage a single target object;
      - each explosive submunition is equipped with an electronic self-destruction mechanism;
      - each explosive submunition is equipped with an electronic self-deactivating feature.

3. The system applies to goods originating in and coming from "all" countries.

4. The system is designed to meet the requirements of the Convention by the restricting the quantity of cluster munitions imported to those required for the purposes of developing, or training persons in, techniques of cluster munitions detection, clearance, deactivation, or destruction. The Minister of Foreign Affairs must specify, by notice in the *Gazette*, the number of cluster munitions determined by the Minister to be the number that, for the time being, are absolutely necessary for the purposes described above.

5. The *Cluster Munitions Prohibition Act 2009* prohibits the import of all cluster munitions, except for those to be used, developed, produced, otherwise acquired, possessed, retained, imported or exported for the purposes of developing, or training persons in, techniques of cluster munition detection, clearance, deactivation, or destruction.

The licensing is statutorily required.

The legislation does not leave designation of products to be subjected to licensing to administrative discretion (see answer to Q2 (i) above).

It is not possible for the government (or the executive branch) to abolish the system without legislative approval.

### **Procedures**

6. Not applicable.

7.(a) Not applicable.

(b) Not applicable. Those importing cluster munitions inadvertently could face prosecution.

(c) No.

(d) Not applicable.

8. None. Although there is no statutory right of administrative appeal against any of the decisions by the Minister, applicants could seek a judicial review of an administrative decision through the courts.

#### **Eligibility of Importers to Apply for Licence**

9.(a) Yes.

(b) Not applicable.

#### **Documentation and Other Requirements for Application for Licence**

10. There are no specifically listed information requirements. Applicants would need to make a case to the Minister of Foreign Affairs for the importation of cluster munitions in conformance with the stated exemptions outlined in the *Cluster Munitions Prohibition Act 2009*, and provide relevant details around type, quantity, storage and ultimate disposal.

11. Authorisation from the Minister of Foreign Affairs to import and designation by the Minister as an officer authorised to be in possession of anti-personnel mines as defined in the *Cluster Munitions Prohibition Act 2009*. An import entry clearance would need to be completed with Customs before release of the goods.

12. There are no administrative charges for the process of obtaining permission to import anti-personnel mines.

13. Not applicable.

#### **Conditions of Licensing**

14. There is no set period of validity for an approval to import. It is possible a period of validity could be specified at the time of approval by the Minister of Foreign Affairs.

15. No.

16. No.

17. No, other than compliance with the *Cluster Munitions Prohibition Act 2009*.

#### **Other Procedural Requirements**

18. No.

19. Not applicable.

### **V. ENDANGERED, THREATENED SPECIES**

#### **Outline of systems**

1. Under the Convention on International Trade in Endangered Species (CITES), documentation is required for the import, export, re-export and introduction from the sea of species listed in its Appendices. The nature of permitting varies depending on: the Appendix in which the species is listed; the age of the specimen; and the nature of the specimen (e.g. personal effects, scientific

samples, etc.). All parts and derivatives of species are included. Permits are obtained by the CITES Management Authority in each country.

### **Purposes and coverage of licensing**

2. All parts and derivatives of species listed in the CITES Appendices.
3. All Parties to the CITES Treaty.
4. Licensing is intended to ensure that harvesting for trade does not impact the long-term survival of endangered species in the wild.
5. In New Zealand, Trade in Endangered Species Act 1989.

### **Procedures**

6. Not applicable, as New Zealand does not have restrictions on quantity of imports.
7. In New Zealand, we are required to process all permits within 20 working days (though it usually takes 5-10 days). All CITES permits are granted by the Department of Conservation. Permit signatories must be lodged with the CITES Secretariat to ensure a system of checking veracity of permits (for example through signatures).
8. An application for a permit may be refused if criteria are not met. No applications have been declined due to other reasons.
9. All persons, firms and institutions are eligible to apply for permits.

### **Documentational and other requirements for application for license**

10. Full information about the importer and the specimen to be traded is required. Application form is available here: <http://www.doc.govt.nz/about-doc/role/international/endangered-species/permits/cites-application-form>.
11. Original permits must accompany the consignment, and are collected by the border control agency in the country of import.
12. New Zealand fees are indicated on the webpage specified under question 10. If permits are required by other countries (for example in a situation where both import and export permits are required), applicants must pay those. Prices vary by country, so this information is not available.
13. Payment must be received before a permit can be issued.

### **Conditions of licensing**

14. New Zealand permits cannot be extended, as they cannot be tampered with. CITES permits issued by the New Zealand CITES authorities are affixed with a holographic security stamp, so originals (not tampered with) must be used.
15. There is no penalty for non-utilisation of a permit.
16. Permits are non-transferable.

17. Permit conditions are included with this document (general conditions for all permits, special conditions for live bird exports).

### **Other procedural requirements**

18. None related to CITES requirements.

19. Not applicable.

## **VI. FIREARMS AND RESTRICTED WEAPONS**

Arms Act 1983 and Arms Regulations 1992

### **Outline of Systems**

1. Applicants for a permit to import firearms and parts thereof may apply to an Arms Office for the permit. Permits to import sporting firearms may be issued by the Arms Officer, permits to import pistols, restricted weapons and MSSAs are subject to a special reason and are issued through Police National HQ. This requirement covers firearms, including pistols, restricted weapons and military style semi-automatics (MSSA), and parts thereof.

### **Purposes and Coverage of Licensing**

2. The permitting regime applies to firearms, pistols, restricted weapons and MSSAs and parts thereof.

3. The system applies to goods originating in and coming from all countries.

4. The purpose is both the safe use and control of firearms and other weapons.

5. Import permitting for firearms (etc.) is established by the Arms Act 1983 and Arms Regulations 1992. Policy and practice is outlined in the Police Arms Manual 2002 (available on line at [www.police.govt.nz/service/firearms](http://www.police.govt.nz/service/firearms)). Certain organisations, including New Zealand Defence and Police are exempt from the licensing regime and may import firearms etc. direct if in the personal possession of a member of that organisation and for the purposes of that organisation.

### **Procedures**

6. The importation of sporting firearms is constrained by the approval of those firearms as being safe and having a valid civilian use in New Zealand, and by market forces. Importation of pistols, restricted weapons and MSSAs are constrained by the requirement for a "special reason".

7.(a) A permit to import is required before the firearm lands in New Zealand. The only exception is where the individual has been unable to obtain a permit. This usually applies only to returning residents, immigrants and visitors to New Zealand.

(b) Import permits may only be issued to the holder of a firearms licence. Visitors may obtain a visitor's licence and permit to import at the border (on demonstrating that they are fit and proper to possess firearms, and that they have been a bona fide shooter in their country of origin).

(c) Not applicable.

(d) New Zealand Police manages the firearms import permit regime (see above).

8. The application for a permit to import may be refused at the discretion of Police. A reason is required to be provided and is subject to judicial review.

#### **Eligibility of Importers to Apply for Licence**

9.(a) Only the holder of a firearms licence may apply for a permit to import a firearm (etc.).

#### **Documentational and Other Requirements for Application for Licence**

10. The applicant is required to complete a standard form.

11. The permit to import is required to be presented to the New Zealand Customs Service.

12. There is currently no charge.

13. None.

#### **Conditions of Licensing**

14. Permits to import firearms (etc.) are valid for one year from date of issue.

15. No.

16. The permit to import is personal to the person it is issued to.

17. Conditions may be placed on the permit to import (for example, surrender of a worn part where the special reason relates to replacing a worn part - of an MSSA).

#### **Other Procedural Requirements**

18. Not applicable.

19. Not applicable.

### **VII. EXPLOSIVES**

Hazardous Substances and New Organisms Act 1996 and various HSNO regulations

#### **Outline of Systems**

1. Hazardous Substances and New Organisms Act 1996 (HSNO) is the legislation under which hazardous substances are regulated. Under the legislation all hazardous substances must be approved before they are imported to or used in New Zealand. Approval is of the substances and once approved anyone meeting conditions on use may make use of (and import) the substance.

There are a number of approval types with approvals being given under different parts of the HSNO Act:

- Part 5 Approvals – cover a single hazardous substance
- Part 6A Group standards – cover group of substances with similar hazard properties, use and handling requirements.

Conditions are applied on the use of the substance.

Applications can be made for the following approvals of hazardous substances:

- Release approvals - pesticides, veterinary medicine and products not covered by group standard approvals;
- Group standard approvals - general and industrial use products with similar uses and hazards
- Issuing a new group standard approval - for products with similar uses and hazards for which a group standard does not yet exist;
- Emergency approvals - to use a non-approved substance in an emergency situation or to use a substance in a way it is not approved for;
- Containment approvals - for use as an analytical standard, research and development, or for export only;
- Transshipment approvals – for the temporary entry of a non-approved substance into New Zealand for transshipment;
- Import certificates for explosives - to apply for an Explosives Import Certificate;
- Approvals for fireworks - for test certificates required for fireworks;

The first three of these are generic and apply to the substance and all users may make use of the approval. The last five relate to a particular use/action and are held by individuals for a particular purpose that relates to the substance.

The agency that administers the regulatory regime and which makes decisions on applications is the Environmental Protection Authority.

### **Purposes and Coverage of Licensing**

2. All explosives as outlined in the Hazardous Substances (Fireworks, Safety Ammunition, and Other Explosives Transfer) Regulations 2003: <http://www.epa.govt.nz/Publications/Hazardous%20Substances%20Fireworks%20Safety%20Ammunition%20and%20Other%20Explosives%20Transfer%20Regulations%2020031.pdf>, except for the following:

- (a) safety ammunition, including pre-primed cartridges and primers, of class 1.4S; and
- (b) airbag initiators and seatbelt pretensioners of classes 1.4G and 1.4S; and
- (c) cable cutters of class 1.4S (UN 0070); and
- (d) power device cartridges of class 1.4S (UN 0323); and
- (e) signal or shock tubes of class 1.4 (UN 0349); and
- (f) cassette degradation devices of class 1.4S (UN 0432); and
- (g) beyond their point of sale to the public,—
- (i) fireworks in classes 1.3G, 1.4G, and 1.4S that are subject to the Hazardous Substances (Fireworks) Regulations 2001; and
- (j) emergency flares and signalling devices in classes 1.3G, 1.4G, and 1.4S; and
- (k) model rocket motors in classes 1.4G and 1.4S; and
- (l) propellants in classes 1.3C (UN 0161 and UN 0449) and 1.1C (UN 0160), in amounts of less than 15 kg; and
- (m) gunpowder of class 1.1D (UN 0027), in amounts of less than 15 kg; and
- (n) igniting fuzes of class 1.4G (UN 0317); and
- (o) igniters of class 1.4S (UN 0454).

3. The Import Certificate for Explosives applies to the relevant goods originating from all countries.



4. The purpose of the HSNO regulation of hazardous substances is to protect the environment and the health and safety of people and communities by preventing or managing the adverse effects of hazardous substances. A licensing system is used for only one area: explosives require an "Explosives Import Certificate" to be imported into New Zealand.

The purpose of the Import Certificate for Explosives is to ensure that all explosives are recorded and documented. The Import Certificate is the first step in this recording for imported explosives. Domestically produced explosives are also tracked. The purpose of the tracking system is to ensure that the whereabouts of explosives can be traced so that only those able to have and use them have access to them.

5. The requirement for an Import Certificate for Explosives is in regulation 4(2) of the Hazardous Substances (Tracking) Regulations 2001 issued under the Hazardous Substances and New Organisms Act. The regulation requires tracking of class 1 substances (explosives) from production/import through to end of their life when they are used.

<http://www.epa.govt.nz/Publications/CSL%20Project%20Licencing%20Requirements%20for%20Class%201%20Explosives.pdf>

### **Procedures**

6. Not applicable.

7.(a) The licence must be applied for at least 10 working days before the arrival of the goods in New Zealand. In cases of urgency, importers can apply on a shorter timeframe, but the granting of the application remains at the New Zealand authority's discretion.

(b) No.

(c) No.

(d) Yes, a single organisation handles the application and approval process.

8. The licence can be declined if there not sufficient guarantee that the materials will be kept secure in transit. Applicants have the right to judicial review in the New Zealand judicial system if they wish to dispute the outcome of an application.

### **Eligibility of Importers to Apply for Licence**

9. Anyone (firm, organisation or person) can apply for an Import Certificate for Explosives. If the amount of explosive is over the threshold for a site before a test certificate is required, then evidence must be shown that the site has a test certificate indicating it complies with storage requirements.

### **Documentational and Other Requirements for Application for Licence**

10. Links from the webpage go to forms and guides relevant to import certificates for explosives and to controlled substances licences:

<http://www.epa.govt.nz/hazardous-substances/certifications/Pages/default.aspx>

An import certificate for explosive can only be issued for explosives that have been approved as approved substances under Part 5 of the HSNO Act and where the import complies with requirements. Evidence is needed of the site the explosives are to be stored in (or used) and of the person in charge of the explosives at this site.

11. Documents required on importation are those required under the United Nations Recommendations on the Transport of Dangerous Goods, model regulations 17<sup>th</sup> revised edition. [http://www.unece.org/trans/danger/publi/unrec/rev17/17files\\_e.html](http://www.unece.org/trans/danger/publi/unrec/rev17/17files_e.html).

12. The full list of substance application fees is found on:  
<http://www.epa.govt.nz/about-us/fees/Pages/Hazardous-Substances-fees-schedule.aspx>

The fees for an import certificate for explosives and controlled substances licences are:

Import certificate for explosives

Activity	Fee (\$NZ, Goods and Services tax inclusive)
Standard explosives	\$115.00
Novelty fireworks	\$57.50

13. Payment in full is required upon application.

**Conditions of Licensing**

14. The Import Certificate for Explosives relates to a specified explosive being imported for a specific site (usually a distribution site) in New Zealand. Tracking regulations require tracking of the substance from here onwards.

15. No.

16. No.

17. No.

**Other Procedural Requirements**

18. Not applicable.

19. Not applicable.

**VIII. HAZARDOUS WASTES**

**Outline of Systems**

1. Imports of waste classified as hazardous under the Imports and Exports (Restrictions) Prohibition Order No 2 2004 require consent from the Environmental Protection Authority. Consent is obtained through meeting the requirements of the Order and where proposed imports are in conformity with New Zealand's obligations under the Basel Convention and the Waigani Convention.

**Purposes and Coverage of Licensing**

2. As above.

3. The system applies to goods originating in and coming from countries who are Parties to the Basel Convention or the Waigani Convention. Imports from non-Parties are prohibited.

4. The purpose is to ensure environmentally sound and efficient management of hazardous wastes and that transboundary movements are conducted in a manner which will protect human health and the environmental against the adverse effects which may result.

5. Imports and Exports (Restrictions) Act 1988, Imports and Exports (Restrictions) Prohibition Order No 2 2004.

Required to implement obligations under the Basel Convention on the Control of the Transboundary Movement of Hazardous Wastes and their Disposal and the Waigani Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region.

"waste" and "hazardous waste" are defined in the Order.

It is not possible for the government (or the executive branch) to abolish the system without legislative approval.

### **Procedures**

6. Not applicable

7.(a) No set time limit, depends on timing of commercial arrangements. No ability to fast track a licence.

(b) No.

(c) No.

(d) Yes - one single administrative organ.

8. No additional reasons as to why a request would be refused. Judicial review of decision is only course of appeal.

### **Eligibility of Importers to Apply for Licence**

9.(a) Not applicable.

(b) All persons, firms and institutions are eligible to apply.

### **Documentational and Other Requirements for Application for Licence**

10. A sample form is provided on the EPA website: <http://www.epa.govt.nz/hazardous-substances/import-export/import-waste/Pages/default.aspx>.

Documents the importer is required to supply with the application include a completed notification form, contract(s), insurance, evidence of environmentally sound management, reason for export.

11. Letter of consent from the Environmental Protection Authority containing a permit number.

12. No.

13. Not applicable.

### **Conditions of Licensing**

14. The period of validity of a license is up to twelve months.
15. No.
16. No.
17. Yes, determined on a case by case basis.

### **Other Procedural Requirements**

18. No.
19. Not applicable.

## **IX. GRAPHIC MATERIALS INTENDED FOR USE BY CHILDREN**

Hazardous Substances and New Organisms (HSNO) Act 1996  
Graphic Materials Group Standard 2007

### **Outline of Systems**

1. The Hazardous Substances and New Organisms (HSNO) Act 1996 was enacted to provide a comprehensive health, safety and environmental regulatory framework covering explosives, flammable, oxidising and corrosive substances, as well as those that are toxic to people and the environment. The purpose of the HSNO Act is: "to protect the environment, and the health and safety of people and communities, by preventing or managing the adverse effects of hazardous substances and new organisms". The Ministry of Health is responsible for ensuring that the provisions of the HSNO Act are complied with where it is necessary to protect public health, such as prevention of injuries from exposures to hazardous substances.

### **Purposes and Coverage of Licensing**

2. Some graphic materials have been found to contain high concentrations of toxic elements and their compounds. Graphic materials that require clearance for toxic substances refer to products such as crayons, finger paints and children's watercolour paints, specifically manufactured for use by children.
3. The system applies to goods originating in and coming from all countries.
4. Young children are at greater risk of poisoning through ingestion of hazardous substances that may be contained in such products. These requirements on the importation of graphic materials are in place to reduce the risk of poisoning of young children.
5. Under the Hazardous Substances and New Organisms (HSNO) Act 1996, a set of Group Standards have been made for Graphic Materials to reduce the risk of poisoning of young children. The Environmental Protection Authority has adopted the limits that were specified in the old Toxic Substances Regulations. The Group Standards regulate the maximum permissible levels of metals in imported and locally made graphic materials. Since June 2009, it has been an offence to import or manufacture graphic materials intended for use by children if they do not meet the maximum permissible metal limits set in the Group Standards.

## **Procedures**

6. Not Applicable.
- 7.(a) Clearances of imported goods are managed through the Auckland Regional Public Health Service Central Clearing House. Any applications for clearances or approvals for importation are sent to the Clearing House on the appropriate form. The written approval of a Medical Officer of Health is required *before* goods are imported into New Zealand. Importers or manufacturers are responsible to ensure that graphic materials are tested for metal levels by an accredited laboratory. In New Zealand, laboratories are accredited by International Accreditation New Zealand (IANZ) who can provide contact details of accredited laboratories. Products being imported into New Zealand may be tested by overseas laboratories that are accredited by a body recognised by IANZ.
- (b) Approval can be provided as soon as the medical officer of health is provided with evidence that imported graphic materials intended for use by children meet the maximum permissible metal limits set in the Group Standards. A licence will generally be issued within 24 hours if all the documentation is in order.

Goods that arrive without approval will be held at the border until the approval is obtained.

- (c) There are no limitations as to the period of the year during which application for licence and/or importation may be made, other than applications generally being required to be submitted during normal business hours.
- (d) Consideration of licence applications is effected by a single administrative organ. All permit applications are processed by the Auckland Regional Public Health Service, which provides a national point of contact for information to importers and brokers; assesses all permit applications; reports to importers/brokers whether products will be released or require inspection and/or treatment; and refer consignments which require inspection and/or treatment to the medical officer of health or health protection officer for action (if outside Auckland, this will be officers at the DHB public health unit where the consignment is located).

8. In making a decision whether to approve the importation of goods, the Medical Officer of Health at the Auckland Regional Public Health Service will consider such things as whether an importer can produce evidence that imported graphic materials intended for use by children meet the maximum permissible metal limits set in the Group Standards. Licences will not otherwise be refused. If any application is refused, this will be after consultation (if possible and appropriate) and will be provided in writing. It will clearly state the reasons for the decision and include an explanation of appeal rights.

## **Eligibility of Importers to Apply for Licence**

9. All persons, firms and institutions are eligible to apply under non-restrictive systems.

## **Documentational and Other Requirements for Application for Licence**

10. The information required for an application is a completed application form and evidence that imported graphic materials intended for use by children meet the maximum permissible metal limits set in the Group Standards. This may take the form of analytical results from New Zealand laboratories accredited by International Accreditation New Zealand (IANZ) or from overseas laboratories that are accredited by a body recognised by IANZ.

11. Documents are required upon actual importation are the medical officer of health's approval OR the evidence required to obtain the medical officer of health's approval.
12. There is no licensing fee or administrative charge.
13. Not applicable.

#### **Conditions of Licensing**

14. The period of validity of a license is for the specific consignment that has been approved.
15. No.
16. No as the approval is specific for each consignment.
17. Not applicable – the approval will not be issued until evidence is provided that imported graphic materials intended for use by children meet the maximum permissible metal limits set in the Group Standards.

#### **Other Procedural Requirements**

18. Not applicable.
19. Not applicable.

### **X. OFFENSIVE WEAPONS (KNIVES AND KNUCKLE DUSTERS)**

#### **Outline of Systems**

1. The Customs Import Prohibition Order 2008 prohibits the importation of the offensive weapons listed below, except with the consent of: the Commissioner of Police, a Deputy Commissioner of Police, the Manager: Licensing and Vetting, New Zealand Police, or the National Operations Manager, New Zealand Police.

Applicants for a consent to import the above offence weapons may apply to a Police Arms Officer or the Manager: Licensing and Vetting, New Zealand Police.

#### **Purposes and Coverage of Licensing**

2. The permitting regime applies to all of the offensive weapons listed below:
  - Knuckle-dusters, knives incorporating knuckle-dusters, swordsticks, and any weapon disguised to give the appearance of another article.
  - Any knife having a blade that opens automatically by hand pressure applied to a button, spring, or other device in or attached to the handle of the knife (sometimes known as a flick knife or flick gun).
  - Any knife having a blade that is released from the handle or sheath by the force of gravity or the application of centrifugal force, and that, when released, is locked in place by means of a button, spring, lever or other device (sometimes known as a gravity knife or butterfly knife).
    - With the exception of any folding pocket knife with a blade less than 10 cm in length, any knife that:
      - Is designed for ease of concealment on the person; or

- Has a double-edged blade that is designed or suitable for stabbing or throwing (as opposed to cutting); or
  - Is a knife of any of the kinds sometimes known as urban skinner, terminator, black eagle, black dagger or throwing knife.
  - Bayonets.
3. The system applies to goods originating in and coming from all countries.
  4. The purpose is both the safe use and control of offensive weapons.
  5. Customs Import Prohibition Order 2008.

### **Procedures**

6. Controls on the importation of offensive weapons is not subject as to the quantity or value of the imports. The importation of offensive weapons is constrained by the purpose for which the applicant wishes to possess the weapon, and their suitability to do so.
  - 7.(a) A permit to import is required before the offensive weapon is imported into New Zealand. Import permits may only be issued on the basis of an application made in writing.
  - (b) No.
  - (c) No.
  - (d) Yes, New Zealand Police manages the offensive weapons import permit regime.
8. The application for a permit to import may be refused at the discretion of Police. A reason is required to be provided and is subject to judicial review.

### **Eligibility of Importers to Apply for Licence**

9. Yes. Upon receiving an application in writing police consider the purpose for which the applicant wishes to import the weapon and their suitability to possess that weapon.

### **Documentational and Other Requirements for Application for Licence**

10. The applicant is required to complete a standard form.
11. The permit to import is required to be presented to the New Zealand Customs Service.
12. There is currently no charge.
13. No.

### **Conditions of Licensing**

14. Permits to import offensive weapons are valid for one year from date of issue.
15. No.

16. The permit to import is personal to the person it is issued to.
17. Conditions may be placed on the permit to import.

### **Other Procedural Requirements**

18. No.
19. No.

## **XI. IMPORTS TO ANTARCTICA**

Antarctica (Environmental Protection) Act 1994

### **Outline of Systems**

1. Under the *Antarctica (Environmental Protection) Act 1994* and consistent with the requirements of the *Protocol on Environmental Protection to the Antarctic Treaty* (the Madrid Protocol), the importation of certain items into Antarctica is restricted or prohibited.

This legislation applies:

- to any person in the Ross Dependency,
- to any New Zealand citizen and to any person ordinarily resident in New Zealand,
- to any person who is for the time being a member of, or responsible for organising, any expedition to Antarctica which is organised in New Zealand or which proceeds from New Zealand as its final point of departure for Antarctica, and
- in respect of any act or omission occurring on board any ship or aircraft, to any person on board any ship or aircraft that is:
  - a New Zealand ship or a New Zealand aircraft; or
  - any other ship, whether registered or not and of whatever nationality, which proceeds from New Zealand as its final point of departure for Antarctica.

### **Purposes and Coverage of Licensing**

2. The import licensing system is implemented through the *Antarctica (Environmental Protection) Act 1994* which provides that:

- No person shall introduce onto land or ice shelves or into water in Antarctica any species of animal, plant, or micro-organism not native to that area (s28(1) (e)).
- No person shall import any non-sterile soil into Antarctica – except in accordance with a permit issued under the Act (s28(1) (f)).
- No person shall import into Antarctica any dressed poultry knowing that an inspection in accordance with the Protocol on Environmental Protection to the Antarctic Treaty reveals evidence of disease.
- Permits to bring into Antarctica any animal, plant, or micro-organism not native to Antarctica, or to import any non-sterile soil shall only be issued in accordance with and subject to the restrictions and conditions set out in Article 4 of Annex II to the Madrid Protocol and appendices to that Annex and subject to other conditions as the Minister considers appropriate



and not inconsistent with the purposes and principles in section 9 of the *Antarctica (Environmental Protection) Act 1994*.

3. The system applies to goods from all countries.
4. The above restrictions have been put in place to implement the *Protocol on Environmental Protection to the Antarctic Treaty*. The objective of the *Protocol on Environmental Protection to the Antarctic Treaty* is the comprehensive protection of the Antarctic environment and its dependent and associated ecosystems.
5. The permitting regime for Antarctic activities including the importation of certain goods as highlighted above is a statutory requirement. The *Antarctica (Environmental Protection) Act 1994* grants the Minister of Foreign Affairs the power to grant some permits with respect to proposed activities in Antarctica based on their likely impact on the Antarctic environment. Other permits require the approval of Antarctic Treaty Consultative Parties. The *Antarctica (Environmental Protection) Act 1994* may not be repealed without legislative approval.

### **Procedures**

6. Not applicable.
  - 7.(a) Persons proposing to undertake activities in Antarctica including those which may involve the importation of certain goods are encouraged to contact the Ministry of Foreign Affairs as early as possible to discuss their plans and no later than three months before the proposed activity is expected to start.
  - (b) Permits cannot be granted immediately upon request. Permits should generally be obtained prior to activities being pursued in Antarctica. In exceptional circumstance permits can be issued retrospectively.
  - (c) Applicants are encouraged to seek permit before the end of September each year prior to the activity taking place but applications can be received through the year.
  - (d) Permit applications are assessed by the Environment Division of the Ministry of Foreign Affairs who seek expert advice on the likely environmental impact of proposed activities and provide advice to the Minister of Foreign Affairs on whether to permit the activity and whether to impose conditions on the activity to protect the environment, and manage compliance, environmental monitoring and post-activity reporting. Applicants deal exclusively, with the Ministry of Foreign Affairs.
8. The issuance or denial of a permit is based on the likely impact of the activity on the Antarctic Environment, and the reason for a decision or conveyed to the applicant. The applicants have recourse to judicial review of the decision under the Judicature Amendment Act 1972.

### **Eligibility of Importers to Apply for Licence**

- 9.(a) Not applicable.
- (b) All persons to whom the *Antarctica (Environmental Protection) Act 1994* applies are eligible to apply for a permit for a proposed activity in Antarctica. There is no fee.

### **Documentational and Other Requirements for Application for Licence**

10. The applicants are required to provide the following information:
  - A description of the proposed activity;
  - A statement as to the likely environmental impact of the proposed activity;
  - A statement as to whether the applicant is applying or has applied the environmental assessment procedures set out in Annex I of the Madrid Protocol to the activity;
  - The name and contact address in New Zealand of the person;
  - The number of person the in the expedition likely to carry out the activity;
  - The date and place of final departure from Antarctica;
  - Further information may be required to be submitted based on the initial evaluation of the proposed activity.
11. Permits are required to be carried at all times when undertaking approved activities.
12. No fee is charged.
13. Not applicable.

### **Conditions of Licensing**

14. The period of the permit depends upon the specific activity. Extensions to permits can be applied for by applicants.
15. There is no penalty fee for not using a permit or portion of a permit.
16. Permits are not transferable but can be varied by the addition or omission of persons covered.
17. The Minister of Foreign Affairs can impose additional conditions on permits in order to minimise the effects of the activity on the Antarctic environment.

### **Other Procedural Requirements**

18. There are no other administrative processes required.
19. No applicable.

## **XII. MARINE ANIMALS**

### **Outline of Systems**

1. The import and export of marine mammals (including marine mammal products) is governed by both CITES and the Marine Mammals Protection Act 1978 (sections 4(2), (5), and (6)). A permit is required to hold any marine mammal (or marine mammal product) except in the circumstances set out in section 4(5) Marine Mammals Protection Act (MMPA), and any institution or individual wishing to export or import such material must apply for a permit from the Department of Conservation to do so. The Marine Mammals Protection Act specifies particular aspects that must be considered when assessing an application for such a permit, which include:
  - The need to conserve, protect, or manage any marine mammal;
  - Any international agreement to which New Zealand is a party;
  - Any submissions received.

### **Purposes and Coverage of Licensing**

2. Permits to import / export issued under the Marine Mammals Protection Act include all live or dead marine mammals, and all marine mammal products (with the exception of marine mammal material being an ornament or an item for personal use or adornment made wholly or principally from any part or parts of a marine mammal, if the marine mammal product accompanies that person from or into New Zealand or comprises part of that person's belongings and was in existence in a similar form as at the commencement of this Act) (see s.4(5) MMPA).
3. The system applies to goods originating in and coming from all countries.
4. A function of the Department of Conservation, under the MMPA, is to protect, conserve and manage marine mammals in New Zealand and in New Zealand fisheries waters. The most effective way to manage and minimise human impact on marine mammals is through a permitting system. New Zealand has no specific quantity or value limits on the import / export of marine mammal material.
5. Marine Mammals Protection Act 1978. The legislation would require amending to remove the requirement for import/export permits. It is not possible to abolish the system without legislative approval.

### **Procedures**

6. Not applicable.
- 7.(a) At least 8 weeks is the minimum preferable.
- (b) No.
- (c) No.
- (d) Yes, applications can be dealt with under delegated authority from the Minister of Conservation by the Department of Conservation's staff.

DOC is the administering authority, but permit applications may require a statutory process of public consultation (28 days). Permit applications that relate to an emergency situation or to the taking of any marine mammal solely for the purposes of research may not require public consultation (at the discretion of the Minister) – see section 5(6) MMPA.

8. There are no circumstances where a permit may be declined other than the criteria specified in the Marine Mammals Protection Act. Yes, reasons for refusal are given to the applicant. Applicants have no right of appeal (see section 6 MMPA) but could apply for judicial review if administrative law failure present).

### **Eligibility of Importers to Apply for Licence**

- 9.(a) Not applicable.
- (b) All persons, firms and institutions are eligible to apply if they meet the criteria specified in the Marine Mammals Protection Act.

### **Documentational and Other Requirements for Application for Licence**

10. The applicant is required to provide the following:
  - (a) The full name and address of the applicant, whether or not the applicant is a New Zealand citizen, and details of such qualifications and experience as the applicant considers will assist the Minister in his consideration of the application;
  - (b) In the case of an intended research project, a full description of the project or programme in which the marine mammal to be taken will be used, a complete list of the sponsors or co-operating institutions concerned with the project, and the names and qualifications of any scientists involved;
  - (c) Where the marine mammal is for display or zoological purposes, details relating to the facilities where the mammal taken will be held or displayed or, if a certificate has been issued in respect of any zoological garden pursuant to regulations made under section 25 of the Animals Act 1967, details of the certificate;
  - (d) Where a marine mammal is to be captured, the number of persons to be involved, the population or area from which it is proposed to take the mammal, and details of the proposed methods of capture and transportation.
11. CITES documentation and Marine Mammals Protection Act permit.
12. Permit processing fees are applicable and vary among applications according to the work involved in permit processing, and whether the application would require gazettal. General power to charge fees given under section 60A-C Conservation Act.
13. On receipt of a permit application, DOC provides an estimate of the cost of permit processing to the applicant, and requires a lodging fee/deposit prior to initiating processing. DOC is able to waive the fees under certain circumstances.

### **Conditions of Licensing**

14. Varies among permits, and may be varied by permit amendment. A permit may be extended by application to do so being granted by the Minister's delegate.
15. No.
16. Permits may be transferred to another person with the prior consent of the Minister after an appropriate application. Such transfers are likely to be subject to conditions.
17. Conditions may be prescribed as per section 7 of the Marine Mammals Protection Act.

### **Other Procedural Requirements**

18. Not applicable.
19. N.A.

### **XIII. OZONE DEPLETING SUBSTANCES**

#### **Outline of Systems**

1. Imports of ozone depleting substances controlled under the Ozone Layer Protection Act and Regulations 1996 and some goods also so controlled require consent from the Environmental Protection Authority. How consent is obtained depends on the substance and/or intended use.

#### **Purposes and Coverage of Licensing**

2. As above.

3. The system applies to goods originating in and coming from countries who are Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer and its various amendments.

4. The purpose is to help protect human health and the environment from adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer by phasing out ozone depleting substances as soon as possible except for essential uses and giving effect to New Zealand's obligations under the Vienna Convention and the Montreal Protocol.

5. Ozone Layer Protection Act 1996, Ozone Layer Protection Regulations 1996, required to implement obligations under the Vienna Convention and the Montreal Protocol. Controlled ozone depleting substances are listed in the Regulations. It is not possible for the government (or the executive branch) to abolish the system without legislative approval.

#### **Procedures**

6.I. Information on formalities of filing applications for licences is published on the Environmental Protection Agency website. Quota information is available from the Environmental Protection Authority.

II. A quota system is only used for controlled substances (these are HCFCs – hydrochlorofluorocarbons). Overall quota was determined once based on historical use of these chemicals by known traders. Individual quota was allocated once after this. Annual licences for a calendar year are issued based on the historical individual quota reduced according to a phase-down schedule.

III. No.

IV. Not applicable.

V. The statutory response timeline is 40 working days. If all information is present and correct permits can be issued in a shorter time frame.

VI. Permits can be used to import on the same day as issue.

VII. Yes – one single administrative organ.

VIII. The historical set quota amount is a right that can be temporarily or permanently transferred under commercial conditions to other quota holders or to new entrants in the market. There is provision to issue or reallocate additional quota.

IX. Yes, import licenses are required, they are not issued automatically.

X. Not applicable.

XI. No.

7.(a) No set time limit, depends on timing of commercial arrangements. No ability to fast track a licence but import exemptions for e.g. inadvertency can be applied for up to 10 days after arrival.

(b) No.

(c) No.

(d) Yes - one single administrative organ.

8. No additional reasons as to why a request would be refused. Appeal against an adverse decision is possible to High Court.

#### **Eligibility of Importers to Apply for Licence**

9.(a) All persons, firms and institutions are eligible to apply.

(b) All persons, firms and institutions are eligible to apply.

#### **Documentational and Other Requirements for Application for Licence**

10. Requirements are set out in the Regulations and published on the website. Documents the importer is required to supply vary with the substance to be imported.

11. Letter from the Environmental Protection Authority containing a permit number.

12. No.

13. Not applicable.

#### **Conditions of Licensing**

14. The period of validity of a license is either a calendar year or up to twelve months depending on the substance to be imported.

15. Yes, permits can be cancelled for non-use.

16. Yes, permits are transferrable. There are no limitations or conditions.

17. Yes depending on the substance, determined on a case by case basis.

#### **Other Procedural Requirements**

18. No.

19. Not applicable.

## **XIV. RADIOACTIVE SUBSTANCES**

Radiation Protection Act 1965 and Radiation Protection Regulations 1982

### **Outline of Systems**

1. The Office of Radiation Safety (ORS) administers New Zealand's radiation protection legislation. The Radiation Protection Act 1965 (the Act) defines radioactive material and sets out the requirement for import consents. The Radiation Protection Regulations (the Regulations) specify exemptions from the requirement to obtain an import consent.

When a consent is issued ORS also issues a permit number which the importer then provides to the New Zealand Customs Service in order for the material to be imported.

### **Purposes and Coverage of Licensing**

2. Single consignment import consents for any type of radioactive material, and multiple consignment import consents for unsealed radioactive material.

3. The system applies to goods originating in and coming from all countries.

4. The consent system forms part of the national regulatory system designed to ensure as far as practicable the safety and security of radioactive sources.

5. Section 12 of the Radiation Protection Act 1965 prohibits the importation of radioactive material without a consent. Regulations 4(3) and 4(4) of the Radiation Protection Regulations 1982 specify exemptions. There is no administrative discretion to amend these requirements. The executive cannot amend the requirements of the Act without legislative approval.

### **Procedures**

6. Not applicable.

7.(a) 5-10 working days.

(b) In exceptional circumstances, consent can be granted within a few hours following the receipt by ORS of an application.

(c) No.

(d) Importers make a single application to ORS. In some cases ORS will seek a technical opinion from the National Radiation Laboratory before issuing the consent. This is an internal process and does not require multiple approaches by the importer.

8. Applications may be refused on security or safety grounds. Refusals are rare because most applications are for justified reasons. However in the case of a refusal the reasons are given to the applicant.

Section 23(2) of the Radiation Protection Act provides for appeals to be determined by a Board of Appeal. A comprehensive set of procedures is provided in the Radiation Protection (Appeals) Regulations 1974.

**Eligibility of Importers to Apply for Licence**

- 9.(a) Not applicable.
- (b) Yes.

**Documentational and Other Requirements for Application for Licence**

- 10. The information required for applications is published on the Environmental Protection Agency website <http://www.epa.govt.nz/hazardous-substances/ozone/Pages/OLPA-Application-forms.aspx>.
- 11. Notification of arrival of material – no prescribed form.
- 12. For a single consignment consent to import of IAEA category 1 or 2 radioactive material - \$100. For a single consignment import consent of IAEA category 3, 4 or 5 radioactive material - \$20. For each consignment under a multiple consignment consent to import unsealed radioactive material - \$5.
- 13. No.

**Conditions of Licensing**

- 14. Consents to not have a validity period.
- 15. No.
- 16. No.
- 17.(a) Not applicable.
- (b) Yes. Quantitative restrictions apply to multiple consignment consents. Restrictions are in the form of quarterly limits on the total activity of individual radionuclides imported.

**Other Procedural Requirements**

- 18. A licensee must be appointed to assume safe care of the radioactive material upon its arrival. If no such licensee is available then the goods must be stored to the satisfaction of ORS. This means that sometimes an applicant will need to obtain a licence to use the radioactive material before obtaining the import consent.
  - 19. The payment of all fees is required to be in New Zealand dollars.
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