

# Supplementary Departmental Disclosure Statement

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Health and Safety Reform Bill
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A supplementary disclosure statement for proposed government amendments to a Bill seeks to bring together in one place some selected information to support and enhance the Parliamentary and public scrutiny of those proposed amendments.

It highlights certain significant powers or features in the proposed amendments that might be of particular Parliamentary or public interest and warrant an explanation.

It provides a limited supplement to the original disclosure statement for the Health and Safety Reform Bill, dated 10 March 2014, which can be found at this [link](#).

This supplementary disclosure statement was prepared by the Ministry for the Environment with support by the Ministry of Business, Innovation and Employment as the lead department on the Bill.

The Ministry for the Environment and the Ministry of Business, Innovation and Employment certify that, to the best of their knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

10 August 2015.

## Significant Legislative Features

### Offences, penalties and court jurisdictions

<b>1. Do the proposed amendments create, amend, or remove:</b>	
<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalties)?</b>	<b>YES</b> (YES for original Bill)
<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>NO</b> (YES for original Bill)
The proposed amendments to the Hazardous Substances and New Organisms (HSNO) Act 1996 by way of supplementary order paper (SOP) make an additional offence provision indicating that an offence includes “any prohibition specified in any regulations”. This additional offence provision is required to ensure that one of the proposed regulation-making powers, where not complied with if regulations were made, can be an offence under the HSNO Act.	

<b>1.1. Was the Ministry of Justice consulted about these provisions?</b>	<b>YES</b> (YES for original Bill)
The Ministry of Justice have been consulted on the Cabinet paper entitled “Health and Safety Reform Bill: Supplementary Order Paper” that proposes HSNO Act amendments by SOP and, in particular, amendments concerning HSNO Act offence provisions.	

### Privacy issues

<b>2. Do the proposed amendments create, amend, or remove any provisions relating to the collection storage, access to, correction of, use or disclosure of personal information?</b>	<b>YES</b> (YES for original Bill)
The proposed amendments to the HSNO Act by way of SOP make provisions for information to be more readily shared across enforcement agencies. This information-sharing provision mirrors the information-sharing provision for workplace health and safety regulators in the new Health and Safety at Work Act proposed by the Bill.	

<b>2.1. Was the Privacy Commissioner consulted about these provisions?</b>	<b>YES</b> (YES for original Bill)
The Office of the Privacy Commissioner have been consulted on the Cabinet paper entitled “Health and Safety reform Bill: Supplementary Order Paper” that proposes HSNO Act amendments by SOP and, in particular, amendments concerning HSNO Act information sharing provisions.	

### Compulsory acquisition of private property

<b>3. Do the proposed amendments contain any provisions that could result in the compulsory acquisition of private property?</b>	<b>NO</b> (NO for original Bill)
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### Charges in the nature of a tax

4. Do the proposed amendments create or amend a power to impose a fee, levy or charge in the nature of a tax?	<b>NO</b> (NO for original Bill)
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### Retrospective effect

5. Do the proposed amendments affect rights, freedoms, or impose obligations, retrospectively?	<b>NO</b> (NO for original Bill)
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### Strict liability or reversal of the burden of proof for offences

6. Do the proposed amendments:	
(a) create or amend a strict or absolute liability offence?	<b>NO</b> (YES for original Bill)
(b) reverse or modify the usual burden of proof for any offence or civil pecuniary penalty proceeding?	<b>NO</b> (YES for original Bill)

### Civil or criminal immunity

7. Do the proposed amendments create or amend a civil or criminal immunity for any person?	<b>NO</b> (YES for original Bill)
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### Significant decision-making powers

8. Do the proposed amendments create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	<b>NO</b> (YES for original Bill)
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### Powers to make delegated legislation

<b>9. Do the proposed amendments create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?</b>	<b>YES (YES for original Bill)</b>
<p>The proposed amendments to the HSNO Act by way of SOP create additional regulation-making powers to the amendments to regulation-making powers made under the Bill. Currently, the Bill repeals many existing regulation-making powers under the HSNO Act and replaces them with a power enabling the Environmental Protection Authority (EPA) to make tertiary legislative instruments referred to as EPA Notices. EPA Notices are intended for technical matters only and not for issues of significant public interest. The additional amendments proposed in the SOP look to make new regulation-making powers for the purpose of allowing the Government to act quickly and decisively in response to matters of significant public interest and national concern. The powers will enable the Government to: prohibit the possession, importation and manufacture of any hazardous substance; restrict the sale of any hazardous substance; and restrict the access to or use of a hazardous substance outside the workplace.</p>	

<b>10. Do the proposed amendments create or amend any other powers to make delegated legislation?</b>	<b>YES (YES for original Bill)</b>
<p>The proposed amendments to the HSNO Act by way of SOP ensure the appropriate use of these new regulation-making powers by proposing that the Minister for the Environment be satisfied that any regulation is made in the public interest, and that he/she consults with the Minister for Workplace Relations and Safety and the EPA.</p>	

### Any other unusual provisions or features

<b>11. Do the proposed amendments contain any provisions (other than those noted above) that are unusual or call for special comment?</b>	<b>NO (YES for original Bill)</b>

