

SECTION V – NICNAS Registration

13. NICNAS Registration

All importers and/or manufacturers of industrial chemicals for commercial purposes must register with NICNAS. **Registration for 2004-05 involves an annual registration fee** (refer to NICNAS registration brochure for details), regardless of the amount of industrial chemicals imported and/or manufactured in that registration year. **A registration year runs from 1 September to 31 August in the following year.**

The relevant provisions for NICNAS registration obligations appear in section 80 of the Act and can be accessed at the SCALEplus website of the Australian Attorney General's Department at scaleplus.law.gov.au.

NICNAS Registration is **not** linked to the toxicity or hazardous nature of your chemicals. **It is not the registration of chemicals or products, but is the registration of your business.** The Registration Tier that applies to you depends on the value of the industrial chemicals you import and/or manufacture.

13.1 What are the benefits of NICNAS Registration?

NICNAS Registration was introduced to improve industry knowledge of NICNAS and the regulation of industrial chemicals in Australia, thereby enhancing community confidence in the chemical industry. It will also help to ensure that information and education on the safe use of chemicals becomes more widely available. The aim of NICNAS registration is to deliver our goal of 'safe and sustainable use of industrial chemicals' through effective partnership between the regulator and the industry. By registering all those in the chemical industry NICNAS will be able to assist and serve industry more efficiently.

Under NICNAS Registration, a Register of Industrial Chemical Introducers is maintained www.nicnas.gov.au/obligations/registration/register.htm.

This means NICNAS is able to build up a comprehensive client base, which allows us to keep you, our industry clients, fully informed of your obligations under the Act. By engaging with you, we can better target our education and compliance activities to meet the needs of your industry sector.

Once registered, you will receive the *Chemical Gazette* over the Internet. The *Chemical Gazette* is the formal NICNAS publication for advising important matters, regulatory issues and requirements for chemical introduction. You will also be provided with frequent updates through the NICNAS newsletter, *NICNAS matters*. In this way you will be kept in the information loop concerning chemical safety.

Registration fees will be used to fund compliance activities, as well as education and training, especially targeting small and medium sized enterprises.

13.2 What is an industrial chemical?

Under the Act, industrial chemicals encompass many things and include cosmetics, solvents, adhesives, plastics, inks in pens and biros, laboratory chemicals, chemicals used in mineral and petroleum processing, refrigeration, printing and photocopying, paints and coatings, household cleaning products and toiletries, to name just a few.

The Act specifically excludes articles (such as plastic chairs, glow sticks, photographic film, etc.) and radioactive chemicals. Chemicals used solely as medicines, pesticides, veterinary chemicals, and/or food or food additives are also outside the scope of NICNAS.

13.3 How are we funded?

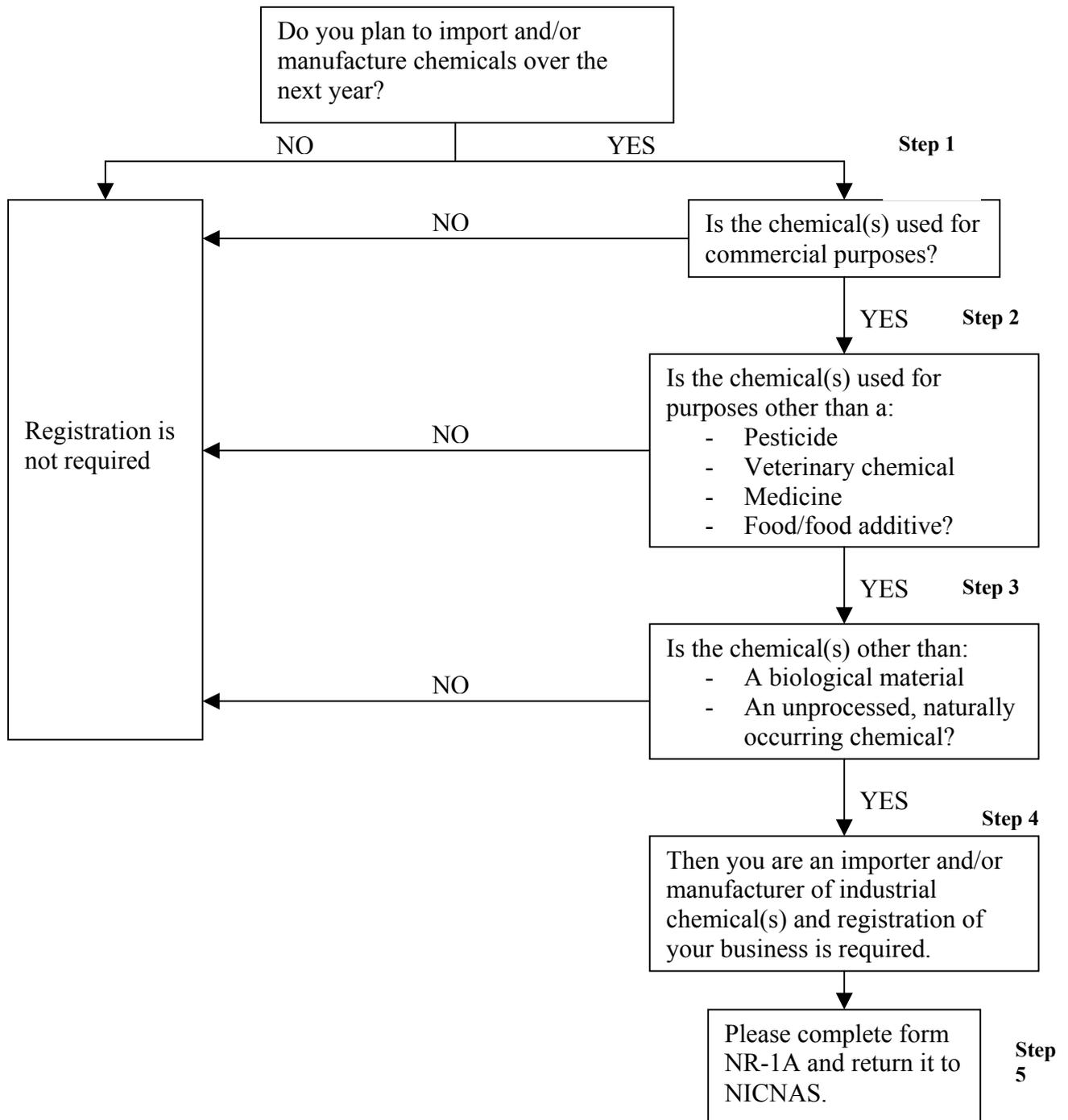
Our activities have been fully cost recovered since 1997 through NICNAS Registration fees and charges, fees and administrative charges for new chemical assessments. NICNAS Registration monies fund the administration of NICNAS Registration, the assessment of existing chemicals, our education and awareness activities, and most of our compliance activities. The fees and charges obtained from new chemical assessments fund the New Chemicals program.

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13.4 How do you decide if you should register with NICNAS?

To help you make this decision, please follow the decision tree below.

Decision Tree for NICNAS Registration



STEP 1 ‘Chemicals’ is a very broad term: it includes lipsticks, shampoos, cosmetics (even ones containing naturally-occurring ingredients), inks in pens/biros, solvents, adhesives, plastics, paints and toner/inks in printer cartridges. However, it does not include articles (such as plastic chairs, glow sticks, paper, etc.) and radioactive materials. The chemical can be an element, compound or ingredient in a mixture.

STEP 2 Examples of commercial purpose include on selling or use in your business. Non-commercial purpose includes personal use, teaching purposes, non-profit research and charity.

STEP 3 Your registration is based on whether you introduce **industrial** chemicals. The definition of an industrial chemical is associated with the **end use** of the chemical.

Examples to give you an idea on how an industrial chemical is defined by its end use:

- a) Glue for wood binding. This is considered to be an industrial chemical.
- b) Chemical for the purposes of pest control. This would be a pesticide and thus not considered an industrial chemical.
- c) Chemical to be used both as a solvent in paint and as a pool chemical used to kill algae. The proportion imported for use in paint would be considered an industrial chemical, and thus requires the registration of your business.

It also must be noted that all cosmetics are industrial chemicals, except if they are used for medical-related purposes (such as anti-dandruff shampoos) and are registered with the Therapeutics Goods Administration (TGA).

Therefore, if you only import/manufacture chemicals that are solely for use as a pesticide, veterinary chemical, medicine, food/food additive, then they are *not* industrial chemicals, and hence registration of your business is not required.

STEP 4 ‘Naturally-occurring’ chemicals and biological materials (eg. blood), while industrial chemicals are exempt from NICNAS Registration requirements.

A ‘naturally-occurring’ chemical is very narrowly defined under the Act. Many substances do come from natural origins, but this does not mean they meet the definition of ‘naturally-occurring’.

What has to be considered is the process involved in deriving or extracting these substances. Under the Act, only mechanical processes (eg. dissolution in water, cold-pressing, etc.) are allowed if substances are to retain their ‘naturally-occurring’ status. If a chemical process (eg, fractional precipitation) were used, then the substance derived would no longer qualify as ‘naturally-occurring’.

Examples of biological material would include blood, human or animal tissue, etc.

For more information on which chemicals are within the scope of NICNAS registration refer to the Fact Sheet on [Relevant Industrial Chemicals](#)

STEP 5 Now that you have determined that you need to register your business with NICNAS, the next step is to decide which **tier** you should register under. You must then complete the form NR-1A and return it to NICNAS.

13.5 Registration Costs

There are three levels of registration. **Your registration level, and hence registration cost, is based on the total value of industrial chemicals imported and/or manufactured each year.** See Appendix 4 for fees and charges.

How do I estimate the value of the chemicals I introduce?

To determine which Tier you should register at, the total value of the industrial chemicals you import and/or manufacture must first be estimated. NICNAS Registration is not intended to add unduly to your accounting or record keeping requirements. You can base your registration level on reasonably justifiable estimates.

It may be helpful to use relevant commercial documents such as commercial invoices, order/confirmation bill of lading/airway bill, insurance certificates or receipts for purchase of goods.

To make this estimation, there are four options:

Option A – You import only:

$$\text{Annual value of all industrial chemicals} = \text{Customs value (in AUS dollars)} + \text{Insurance} + \text{Freight} + \text{Customs Duty}$$

Option B – You manufacture only (and buy ingredients from local suppliers):

The total value of industrial chemicals manufactured is the cost of labour and materials (including all ingredients) involved in the manufacture, plus the factory overhead expenses.

Option C – You import AND manufacture, but your imports are not used in your manufactures:

You would apply Option A to your imports, Option B for your manufactures and add the two values together.

Option D – You import AND manufacture, but some or all of your imports are used in your manufactures:

In this case, the total value is estimated in the same way as in Option C. However, make sure that the value of the imported chemicals (used to manufacture another chemical/s) is only counted **once** when calculating your total value of introductions.

13.6 How do I register with NICNAS?

Applications for registration must be made on the approved form NR-1A. Applications are to:

- contain an approved form completed in full;
- be accompanied by the required payment, and
- be lodged with NICNAS no later than 31 August before the start of the registration year.

Once the application has been processed, the registrant will be allocated a registration number and issued with a certificate. The importer and/or manufacturer's name will then be placed in the Register of Industrial Chemical Introducers.

Applications for registration will be considered as soon as practicable within 30 days of their receipt.

Registration is in force the whole of the registration year to which it relates (1 September to 31 August), or for the remainder of that year in the case of part year registrations. There is no reduction in fee/charge for part year registrations.

13.7 Renewal of Registration

Registrations are renewed on an annual basis. Early in August each year, NICNAS will send you an invoice and renewal form. Simply complete the Application for Renewal of Registration/Notice of Non Renewal (NR-2) and return it to NICNAS with the necessary payment. You have until 31 August to renew your registration.

Renewals received by NICNAS after the renewal deadline of 31 August are subject to a mandatory **late renewal penalty** (an additional 15% of the total registration cost).

Which Tier level should I renew my registration at?

All importers and/or manufacturers of relevant industrial chemicals for commercial purposes are required to pay the registration fee. Some registrants are also required to pay the registration charge:

- Register as **Tier 1** if you intend to import and/or manufacture relevant industrial chemicals in a registration year below \$500,000. Tier 1 registrants only pay the registration fee; **but,**

If last financial year, you have imported and/or manufactured relevant industrial chemical at a value that equalled or exceeded \$500,000, you will be required to pay the annual registration charge as well and register as either Tier 2 or 3. Tier 2 and 3 registrants pay the registration fee and charge.

- Register as **Tier 2**, if you intend to import and/or manufacture relevant industrial chemicals at or above \$500,000 in a registration year.

- Register as **Tier 3**, if you intend to import and/or manufacture relevant industrial chemicals at or above \$5000,000 in a registration year.

You could be entitled to a refund at the end of the registration year depending on the value of relevant industrial chemicals actually imported and/or manufactured.

Notice of intent not to renew registration

At the end of the registration year, if you are no longer required to be registered in the following year, you must submit a statement of your intent not to renew your registration before the start of the next registration year (i.e., by 31 August). This statement is to be provided to the Director, giving reasons why registration is no longer required. For example, you have decided to source your industrial chemicals locally rather than import them, or your business stopped trading in industrial chemicals. The renewal/non-renewal form, NR-2, can be used for submitting this notice.

13.8 Who should submit a final statement of introduction?

If you are registered at the Tier 2 level, you must submit a final statement of introduction (NR-3) to NICNAS no later than 31 October following the end of your registration year. This statement is to indicate the value of industrial chemicals actually introduced in that year.

On the basis of the statement, the Director will issue a written assessment confirming one of the following:

- that registration was at the correct level and that the correct registration charge was paid;
- that the total value of industrial chemicals imported and/or manufactured by you was below the \$500,000 threshold in the year for which they were registered, in which case the registration charge will be refunded; or,
- that the total value of industrial chemicals imported and/or was equal to or exceeded \$5,000,000 for the registration year; therefore, the registration charge should be adjusted to the higher level, and the notice will indicate the date by which the additional charge is to be paid (this date will be at least 28 days after the notice is given).

13.9 Reconsideration and review of registration assessments

Within 21 days of receiving your assessment of registration, you may request reconsideration of the assessment by writing to the Director, stating the reasons for the request. The Director will reconsider the assessment on request and he or she may confirm, revoke or vary the original assessment in any manner.

If you do not agree with the outcome of a reassessment, you may lodge an appeal with the Administrative Appeals Tribunal within 28 days of the end of the reconsideration process.

13.10 What are my registration obligations?

Tier 1 level Registrants

If you are registered at the Tier 1 level, you do not have to submit a final statement of introduction; however, if it turns out that you introduced **\$500,000 or more**, you will have to upgrade your registration and pay the registration charge of \$1,099 (Tier 2 level) or \$8,186 (Tier 3 level).

Tier 2 level Registrants

If you are registered at the Tier 2 level, you are required to:

- submit a **final statement of introduction** (NR-3) to NICNAS after the registration year has ended and,
- keep for five years all records relating to industrial chemicals imported and/or manufactured in that year that are necessary to work out whether the registration charge is payable, and any amount of registration charge payable.

Registered importers at Tier 2 must keep all relevant commercial documents (within the meaning of s240 of the Customs Act 1901) relating to the industrial chemical/s for at least five years after the industrial chemical is imported into Australia. This includes commercial documents that came into the person's possession or control before, on, and after the entry of the industrial chemical/s into Australia.

Tier 3 level Registrants

If you are registered at the Tier 3 level, the above requirements in relation to the final statement do not apply to you as you are entitled to unlimited introductions.

13.11 What happens if I do not register?

If you do not have a NICNAS Registration, yet you import and/or manufacture industrial chemicals for commercial purposes, then you are in breach of the Act. The Act allows NICNAS to stop you from introducing industrial chemicals until you have met the requirements of the Act. Penalties apply.

Under section 80B of the Act, it is an offence to import and/or manufacture industrial chemicals in a registration year without a registration in force. The associated penalty is up to \$33,000 for an individual and \$165,000 for a company.

NICNAS believes in achieving compliance through information dissemination and working cooperatively with industry. You are welcome to call our free call hotline **1800 638 528** to discuss any aspects of NICNAS Registration.

We are committed to maintaining the integrity of the program, and to ensuring the interests of members of industry who comply with NICNAS Registration requirements are protected against those who do not. You may be subject to audits

from time to time, and may be required to justify the basis for determining the total value of industrial chemicals imported and/or manufactured.

13.12 Can I transfer my registration?

The registration of an importer or manufacturer under the Registration of Introducers of Industrial Chemicals provisions in Part 3A of the Act is not transferable except under the following circumstances:

- if a registered person dies, the legal personal representative of the person's estate becomes the registered person;
- if a registered person becomes bankrupt, the trustee of the estate of the bankrupt becomes the registered person; and/or
- if a body corporate that is registered is being wound up, the person appointed to be the liquidator of the body corporate becomes the registered person.

When to notify the Director of changes to your circumstances

Under s80R(5) of the Act, the Director must be notified in writing as soon as practicable, if any of the above circumstances occur, so that the Register of Industrial Chemical Introducers can be updated.

If a registered body corporate is taken over by another person (whether registered or not) and as a result of the takeover the body corporate ceases to exist, the Director must be notified of the particulars of the take over within seven days after the takeover takes effect.

Also, if a registered body corporate merges with another (whether registered or not) to form a new body corporate, the Director must be notified of the merger by the new corporate within seven days of the merger taking effect.

13.13 Register of Industrial Chemicals Introducers

The Register of Industrial Chemical Introducers contains a maintained list of registrants and their registration numbers. This provides NICNAS with current details of its client base, enabling it to keep its industry clients fully informed of their obligations under the Act and any changes as they take place