

Module 8

Need for planning and capacity building by local authorities

What

- need for increased knowledge within local authorities on hazardous substances and the HSNO Act
- the requirements for local authorities for capacity building in the area of the HSNO Act
- requirements to train enforcement officers
- need for training of other council staff

Why

- to understand why local authorities need to increase their knowledge base in the area of hazardous substances and the HSNO Act
- to help authorities meet their requirements under HSNO legislation in terms of training staff
- to understand what the scope of capacity building needs to be

How

- presentation
- discussion



Where there is an open mind, there will always be a frontier
Charles F Kettering

Module 8

Need for capacity building

8.1 PLANNING BY LOCAL AUTHORITIES FOR MEETING THE REQUIREMENTS OF THE HSNO ACT

Overview

The HSNO Act introduces a new framework for controls on hazardous substances, with consequences for both regional councils and territorial authorities and their roles and responsibilities under the RMA.

In contrast to historical legislation which covered different hazardous substances and parts of their life cycle, the HSNO Act controls *all* hazardous properties of a substance in an integrated way.

Historically, if a substance were both flammable and toxic, the flammability would have been controlled under the Dangerous Goods Act while the toxicity would have been controlled under the Toxic Substances Act. In contrast, the HSNO Act controls both properties, together with the controls on all the other hazardous properties defined by the Act.

As a result, the controls covered by the HSNO Act are much more complex and comprehensive than under previous legislation.

The HSNO Act itself, as well as the amendment of the RMA by the HSNO Act (refer Module 2) has significant implications on local authorities. Of significance are the required changes to planning documentation and conditions on resource consents (Module 5 and 6), and the requirements for local authorities in terms of enforcement (Module 7).

As a result, all local authorities need to plan for, and build capacity, in the following areas:

- implementing required changes to planning documentation
- incorporating HSNO requirements into resource consents
- preparing for enforcement and liaising with ERMA New Zealand and other enforcement agencies
- capacity building among council staff, and employment of new staff to meet HSNO requirements.

Preparing for enforcing the HSNO Act (territorial authorities)

Territorial authorities have to carefully consider their roles and responsibilities for enforcement under the HSNO Act (refer Module 7). In summary this includes:

- observing closely the approvals of new hazardous substances, and also the transfer process of hazardous substances undertaken by ERMA New Zealand, as this will determine the commencement of enforcement activities
- liaising with ERMA New Zealand and other enforcement agencies on the scope of the enforcement role(s) to be taken on
- developing Memoranda of Understanding with other enforcement agencies to manage gaps and overlaps, and liase and share information
- developing a plan that outlines the intent of enforcement both in the mandatory and optional areas, including options for the transfer or contracting out of enforcement
- regular reporting to ERMA New Zealand, as set out in the Act and guidance documentation prepared by ERMA New Zealand
- establishing operational procedures and documentation requirements for compliance and enforcement, as set out in guidance prepared by ERMA New Zealand
- preparing a response plan for emergency situations for hazardous substances, based on liaising with other emergency response agencies
- warranting Enforcement Officers and ensuring their ongoing professional training and professional competency in line with the requirements of the HSNO Act
- considering human resources requirements staff in order to meet the 24/7 requirements of the Act for emergencies.



Notes

8.2 AREAS FOR CAPACITY BUILDING

Need for capacity building

Local authorities will need to ensure that they have the necessary capacity to meet the requirements of the HSNO Act in terms of:

- the amendment of policy statements and plans
- the development of rules and methods meeting the requirements of the HSNO Act
- the development and setting of resource consent conditions that meet the requirements of the HSNO Act
- emergencies involving hazardous substances (territorial authorities)
- enforcement, including transferred functions adopted from other enforcement agencies (territorial authorities).

Areas for capacity building

Examples of areas where councils may need to develop additional capacity include:

- knowledge of the HSNO Act as it relates to the RMA and the functions and responsibilities of local authorities
- detailed knowledge of the HSNO control regulations for hazardous substances
- where to obtain access on the specific controls attached to individual hazardous substance approvals
- knowledge on the full range of hazardous properties of hazardous substances
- knowledge on the compliance and enforcement framework of the HSNO Act, and associated requirements and procedures.

It is noted that councils do not necessarily need to develop additional capacity in-house. It could become available by:

- contracting hazardous substances experts
- engaging consultants to provide advice/backup, or
- developing operational arrangements with other enforcement agencies that have the expertise.

8.3 REQUIREMENTS FOR PROFESSIONAL TRAINING ON THE HSNO ACT

Overview

The level and extent of training required for local authority personnel to meet the requirements of the HSNO Act varies, depending on the roles and responsibilities of individual staff members.

- policy planners will need general background training on the HSNO Act and the key linkages with the RMA
- statutory planners, and technical, pollution control and compliance staff will need more detailed training on the HSNO control framework for hazardous substances, and the controls applied to individual hazardous substances
- enforcement officers will need in-depth training on the HSNO Act and the associated control, and compliance and enforcement framework. In order to become warranted, enforcement officers will need to meet the requirements of the HSNO Act and Personnel Qualifications regulations.

Enforcement officers

An enforcement agency must provide a sufficient number of enforcement officers with the range of expertise appropriate to fulfil its responsibilities.

Section 100 of the HSNO Act prescribes that each enforcement officer shall have the prescribed qualifications to carry out the powers, functions, and duties specified in the officer's warrant of appointment. These are described in regulations to the Act. Enforcement agencies need to ensure that enforcement officers have the necessary qualifications (refer Module 7).

Staff training needs to be documented, and systems in place to ensure that training is refreshed and updated on a regular basis in all aspects of the technical and administrative work an enforcement officer will be involved in. A record of qualifications, training and experience of enforcement officers should be maintained.

The nature of training required depends on the ability, qualifications and prior experience of persons involved in enforcement, and will include:

- an induction period
- a supervised working period with experienced inspectors, and
- continuation training, to keep pace with legislative or regulatory changes, compliance mechanisms (such as Codes of Practice), and developing technology.

