



Submission to the Minister of Defence

Tū Aromatawai Independent Review: Terms of Reference for the Audit of Hazardous Substances

MoD ref: 041/19

Type of submission: Briefing **For action by:** Routine

Purpose: To seek your feedback on the Terms of Reference for audit of controls on hazardous substances within the New Zealand Defence Force.

A statutory audit is required to be carried out by the Ministry of Defence of NZDF's controls on hazardous substances.

The audit will be in two parts and will answer these questions:

Stage 1:

Are NZDF's hazardous substance codes of practice consistent with the required standards in the HSNO Act?

Stage 2:

In the six months since the technical audits, what progress has NZDF made in implementing changes to their management of hazardous substances in response to the recommendations from the technical audits?

The Terms of Reference for the statutory audit are attached for your comment or feedback.

Cost:	Nil
Current status:	Draft for consultation
Key risks/Limitations:	Nil

Recommended actions:

a) **Note** the Terms of Reference and provide feedback.

Yes/No

MINISTER OF DEFENCE
Date: 30/4/19

HELENE QUILTER
Secretary of Defence
Date: 15.4.19

cc: K. R. SHORT
Air Marshal
Chief of Defence Force

MOD contact: Gillian Warren	Ph:	A/H:
Agencies involved: Ministry of Defence, New Zealand Defence Force		

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April 2019

Minister of Defence

TŪ AROMATAWAI INDEPENDENT REVIEW: TERMS OF REFERENCE FOR THE AUDIT OF HAZARDOUS SUBSTANCES

Purpose

1. This paper seeks your feedback on the Terms of Reference for the Ministry of Defence's audit of the controls on hazardous substances within the New Zealand Defence Force.

Background

2. The Ministry of Defence is required by statute to audit NZDF's controls on hazardous substances.
3. Your office has requested we provide you with the Terms of Reference for our reviews for comment and feedback.

Comment

4. The Secretary of Defence is required to audit the controls on hazardous substances under section 3(6) of the Hazardous Substances & New Organisms Act 1996.
5. The Ministry of Defence has previously undertaken these audits approximately every three years. The most recent audit was completed in 2016. This was prior to the new Health & Safety at Work Act 2015 being introduced.
6. This audit will be undertaken in two stages. The first is to ensure NZDF's codes of practice are consistent with the HSNO Act. The second stage, to be undertaken in 2019/2020, will review compliance with the codes of practice 'on the ground' following the NZDF-commissioned technical audits.
7. The key questions we will address in the audit are:

Stage 1:

Are NZDF's hazardous substance codes of practice consistent with the required standards in the HSNO Act?

Stage 2:

In the six months since the technical audits, what progress has NZDF made in implementing changes to their management of hazardous substances in response to the recommendations from the technical audits?

8. The key deliverable from the first stage of this audit is a report that assesses whether NZDF's codes of practice for hazardous substances are consistent with the requirements in the HSNO Act.
9. The second stage will commence 6 months after the completion of the NZDF-commissioned technical audits.

Next steps

10. We invite you to consider the Terms of Reference, and to provide any feedback or comments you may have. Following this, Tū Aromatawai will proceed to conduct the first stage of the audit.

Consultation

11. In preparing this Terms of Reference we have consulted with senior leaders of the NZDF and the Ministry of Defence, and the NZDF's Hazardous Substance Assurance Office.

Recommendations

12. It is recommended that you:
 - a. **Note** the Terms of Reference and provide any feedback.



HELENE QUILTER
Secretary of Defence

Annex: Terms of Reference for an audit of NZDF's controls on hazardous substances.



Terms of Reference

HAZARDOUS SUBSTANCES AUDIT

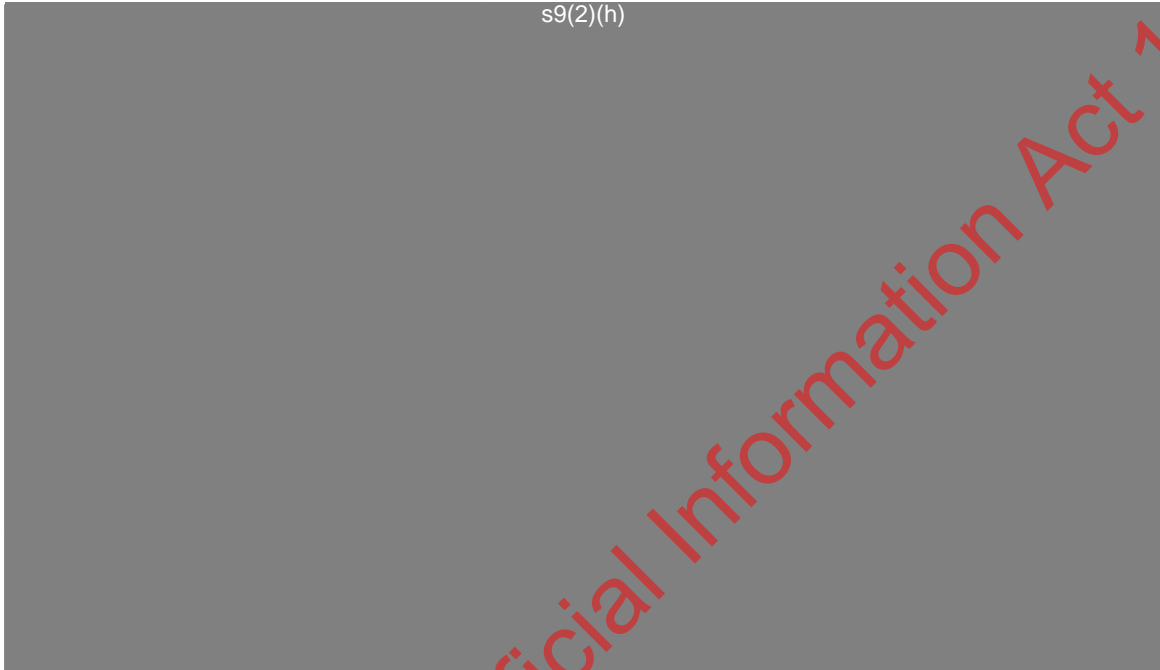
PURPOSE

1. This audit is to be undertaken to meet the Secretary of Defence's statutory obligation to audit the controls on hazardous substances in the New Zealand Defence Force (NZDF).

CONTEXT

2. Under section 3(6) of the Hazardous Substances & New Organisms Act 1996 (HSNO) there is a statutory obligation upon the Secretary of Defence to audit the controls on hazardous substances in the NZDF.
3. The Ministry of Defence's (MoD) Evaluation Division (now called Tū Aromatawai *Independent Review*) has previously undertaken these audits approximately every three years. The most recent audit was completed in 2016, around the time that the new Health & Safety at Work Act 2015 (HSAW) was being introduced.
4. The HSNO Act does not apply to any hazardous substance controlled by the Minister of Defence if the Chief of the Defence Force prescribes "codes of practice" for handling hazardous substances that are consistent with HSNO. The codes of practice take the form of a Defence Force Order (DFO) and New Zealand Defence Publications (NZDP). The DFO outlines how hazardous substances are to be managed within NZDF and the NZDP provide detailed instructions for compliance.
5. The current hazardous substance DFO is called 'DFO 41 Safe Management of Hazardous Substances' and is issued under section 27 of the Defence Act. The two hazardous substance NZDPs are '4.2.2 Hazardous Substances: Class 1 Ammunition and Explosives', and '4.2.3 Hazardous Substances: Classes 2-9'.
6. In order for NZDF's codes of practice to be consistent with the requirements of the HSNO Act, the codes of practice must:
 - be based on the controls imposed by the Environmental Protection Agency (EPA) under the HSNO Act;
 - meet the relevant requirements prescribed in notices issued by the EPA under the HSNO Act; and
 - be consistent, as far as practicable, with the controls imposed under the Health and Safety at Work (Hazardous Substances) Regulations.

7. EPA controls are found in the EPA notices, group standards, and individual hazardous substance approvals. All of these documents are available on the EPA website.
8. In addition to HSNO, in 2017 the Health and Safety at Work (Hazardous Substances) Regulations 2017 (HSAW (HS) Regs) were introduced to set out the rules for work related activities involving hazardous substances.

9.  s9(2)(h)

10.

11.

12.

13. This audit will be the first to review the new DFO and NZDPs following the changes to the HSNO Act, HSAW Act and HSAW (HS) Regulations.

THE KEY QUESTIONS TO BE ANSWERED BY THE REVIEW

14. Are NZDF's hazardous substance codes of practice consistent with the required standards in the HSNO Act?
15. In the six months since the technical audits, what progress has NZDF made in implementing changes to their management of hazardous substances in response to the recommendations from the technical audits?

SCOPE

16. In scope: the audit will cover the Secretary of Defence's mandatory obligations under the HSNO Act, as clarified by Crown Law in December 2018. This includes auditing the controls imposed in the relevant DFO and policies to ensure they:
 - are based on the relevant EPA controls; and
 - meet the relevant requirements prescribed by EPA notices.
17. In a second stage, the audit will include considering compliance with the codes of practice 'on the ground'. In respect of this aspect of the audit it will be carried out after the NZDF-commissioned technical audits.

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18. Out of scope: this audit will not replicate NZDF-commissioned technical and site audits by external experts. They will be carried out by the Canadian Defence Force and Responsible Care NZ in March and April 2019. Tū Aromatawai will use the findings and recommendations from these technical audits when carrying out its audit of compliance 'on the ground'.
19. This audit will not replicate any other audit processes currently underway, for example, the All of Government review of potential PFAS (per- and poly-fluoroalkyl substances) firefighting foam contamination on NZDF sites. The audit may however make reference to these issues in the final report if relevant to provide context.

KEY DELIVERABLES

20. The first stage of the audit will deliver a report examining whether NZDF's codes of practice for hazardous substances as outlined in DFO 41 and NZDP 4.2.2 & 4.2.3 are consistent with the EPA controls. The results of the report will be delivered to the Minister for the Environment and the Minister of Defence as required by the HSNO Act.
21. The second stage will deliver a further report looking at the changes that have been implemented at NZDF sites in order to action the recommendations made by the technical audits.

METHODOLOGY

22. In the first stage we will undertake a desktop exercise examining MoD & NZDF internal documentation, online resources, legislation and regulations.
23. We will interview key personnel involved in the creation and implementation of NZDF's codes of practice on hazardous substances.
24. To prepare for the second stage of the audit, the Tū Aromatawai reviewer will shadow one or more of the technical audits to gain a better understanding of how the codes of practice are implemented on NZDF sites.
25. Once the technical audits have been finalised, the NZDF sites will be given approximately 6 months to implement any changes recommended by the audits before the Tū Aromatawai reviewer visits one of the sites to see what progress has been made.

CONSULTATION

26. The reviewers will consult with key NZDF personnel and the Defence Business Committee as appropriate.
27. The list of key NZDF personnel is likely to include Chief Joint Defence Services, Commander Logistics, Principal Advisor Logistics Policy & Doctrine, as well as members of the Hazardous Substances Unit. Other personnel may be interviewed if appropriate.
28. External consultation will also be held with relevant government agencies including the EPA, WorkSafe and the Ministry for the Environment.

29. The Minister of Defence's office will be updated and consulted during the review process.

TIMEFRAME

30. Stage one of the audit will be delivered by July 2019 and the second stage by March 2020.

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