



**Australian Government**  

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**Department of Health**  
**Australian Industrial Chemicals**  
**Introduction Scheme**

**ENFORCEABLE UNDERTAKING**

Undertaking to [REDACTED] an Authorised Person under section 132 of the  
*Industrial Chemicals Act 2019*,  
given by

**Scentsy Pty Limited**  
**ACN 163162696**

## **1. Person giving undertaking**

This Enforceable Undertaking is given by Scentsy Pty Limited (ACN 163 162 696) (Scentsy) of [REDACTED] under section 114 of the *Regulatory Powers (Standard Provisions) Act 2014*.

## **2. Interpretation**

Terms defined in the *Industrial Chemicals Act 2019* (the IC Act) and the *Regulatory Powers (Standard Provisions) Act 2014* (the RP Act) have the same meaning in this Enforceable Undertaking as in those Acts.

## **3. Background**

- 3.1. The IC Act establishes the Australian Industrial Chemicals Introduction Scheme (AICIS), and the Executive Director of the AICIS (Executive Director), to regulate the introduction (manufacture or import) of industrial chemicals.
- 3.2. AICIS is administered within the Department of Health and Aged Care.
- 3.3. Scentsy is an Australian importer and distributor of fragrance, personal care, and cleaning products. These products contain industrial chemicals (as defined under the IC Act).
- 3.4. Scentsy is alleged to have contravened provisions of the IC Act as set out in paragraph 5 of this undertaking.
- 3.5. The provisions of the IC Act are enforceable under Part 6 of the RP Act. The RP Act creates a framework for accepting and enforcing undertakings relating to compliance with the IC Act.
- 3.6. The Executive Director and each AICIS Authorised Inspector, are Authorised Persons for the purposes of exercising powers under Part 6 of the RP Act.
- 3.7. Scentsy has offered, and the Authorised Person has agreed to accept, an undertaking on the terms and conditions set out in this document.

#### **4. Commencement of enforceable undertaking**

- 4.1. This Undertaking comes into effect when:
- (a) The Undertaking is executed by Scentsy; and
  - (b) The Authorised Person accepts the Undertaking so executed.

#### **5. Contraventions of the IC Act**

##### ***Failure to register in accordance with section 13 of the IC Act***

- 5.1. Between 1 September 2023 and 9 February 2024, Scentsy introduced, on at least one occasion, products containing industrial chemicals.
- 5.2. At the time of these imports Scentsy was not registered in accordance with section 13 of the IC Act.

##### ***Failure to submit declaration in accordance with section 99 of the IC Act***

- 5.3. During the registration year commencing 1 September 2022, Scentsy introduced, on at least one occasion, products containing industrial chemicals.
- 5.4. Scentsy did not submit a declaration in accordance with section 99 of the Act within 4 months after the start of the last month of that registration year.

#### **6. Acknowledgement of conduct**

- 6.1. Scentsy acknowledges that it has engaged in the conduct described above at paragraph 5.
- 6.2. Scentsy acknowledges that Scentsy failed to address this conduct despite being made aware of its obligations on numerous occasions by AICIS.

## **7. Enforceable undertaking**

Under section 114 of the RP Act, Scentsy has offered, and the Authorised Person has agreed to accept, undertakings by Scentsy on the following terms:

- 7.1. Scentsy undertakes to develop and implement a documented system designed to ensure its compliance with section 13 of the IC Act (registration with AICIS) and to provide to the Authorised Person within 45 days of the commencement of this undertaking details of that documented system.
- 7.2. Scentsy undertakes to develop and implement a documented system designed to ensure its compliance with section 99 of the IC Act (submission of annual declaration to AICIS) and to provide to the Authorised Person within 45 days of the commencement of this undertaking details of that documented system.
- 7.3. Scentsy undertakes to provide to the Authorised Person within 45 days of the commencement of this undertaking details of all Scentsy staff with responsibility for ensuring AICIS registration and annual declaration obligations are met.
- 7.4. Following the provision of information under clause 7.3, Scentsy undertakes to advise the Authorised Person within 14 days of any changes to these staff and/or their roles.
- 7.5. Scentsy undertakes to provide to the Authorised Person within 60 days of the commencement of this undertaking details of staff training and guidance already in place or to be developed by Scentsy in order to meet its obligations under the IC Act.
- 7.6. For a period of 12 months following commencement or such shorter time as AICIS stipulates, Scentsy will participate in 4 quarterly (every 3 months) meetings with the AICIS Compliance Section regarding the progress of the actions specified in this Undertaking to ensure Scentsy's compliance with the IC Act.
- 7.7. Scentsy undertakes to retain written evidence to demonstrate compliance with the terms of this Undertaking until the earlier of:
  - (a) such time as AICIS notifies the Parties in writing that the Undertaking has been completely discharged;
  - (b) 2 years after the date the Undertaking takes effect.
- 7.8. Scentsy undertakes to notify the Authorised Person of any change of circumstances that could potentially impact on Scentsy's ability to

undertake the actions specified in this Undertaking as soon as it becomes aware of such circumstances. The circumstances include:

- (a) the sale or potential sale of the business, or part of the business;
  - (b) a change of company director or other officeholder, or any change in an existing director or officeholder's details;
  - (c) if it ceases or expects to cease trading; and
  - (d) Scentsy going into administration or liquidation.
- 7.9. On the occurrence of any event or circumstance described in paragraph 7.8 above, Scentsy undertakes to report to the Authorised Person, and to provide any documentation or other evidence requested by the Authorised Person to confirm the event or events that have transpired.
- 7.10. Scentsy undertakes to cooperate with any reasonable request by AICIS to undertake monitoring activities to verify compliance with this Undertaking.

## **8. Acknowledgements**

Scentsy acknowledges that:

- 8.1. this Undertaking has been made by Scentsy voluntarily.
- 8.2. it has had the opportunity to seek legal advice before executing this undertaking.
- 8.3. this Undertaking does not affect Scentsy's legal duties relating to the importation, sale or use of industrial chemicals arising under the IC Act, the Australian Consumer Law, or any other applicable law.
- 8.4. the acceptance of this Undertaking does not affect AICIS's power to investigate, conduct surveillance or take enforcement action in relation to any contravention not the subject of AICIS's concerns in this enforceable undertaking or arising from future conduct.
- 8.5. this Undertaking once executed will be published on the AICIS website.
- 8.6. AICIS may rely upon any admission made by Scentsy set out in this Undertaking when seeking to address any future non-compliance by Scentsy.
- 8.7. Scentsy may withdraw or vary the Undertaking at any time, but only with the written consent of the Authorised Person or another authorised person under the IC Act, in accordance with section 114(3) of the RP Act.

- 8.8. the Authorised Person, or another authorised person under the IC Act may apply to a relevant court for the terms of the undertaking to be enforced, in accordance with section 115 of the RP Act.
- 8.9. the offences which are the subject of this enforceable undertaking are punishable by penalties of up to:
- (a) \$782,500 for a corporation (\$156,500 for an individual) per contravention of section 13.
  - (b) \$469,500 for a corporation (\$93,900 for an individual) per contravention of section 99.
- 8.10. If the Authorised Person considers that Scentsy has breached the undertaking this may result in AICIS:
- (a) taking enforcement action seeking the application of applicable penalties;
  - (b) making application to the court for orders of the type outlined in section 115 of the RP Act.
- 8.11. Demonstration of compliance with this Undertaking is the sole responsibility of Scentsy.

## **9. Warranties**

Scentsy warrants that:

- 9.1. the information provided to AICIS in negotiating this Undertaking, both orally and in writing, has not been false or misleading;
- 9.2. it has the financial capacity to fully comply with all the terms of this Undertaking;
- 9.3. it is duly incorporated and validly exists under the laws of its jurisdiction of incorporation and has full corporate power and lawful authority to provide this Undertaking;
- 9.4. it is not in liquidation;
- 9.5. no action has been taken by or against the corporation which could lead to the winding up of the corporation;
- 9.6. it is not under official management; and
- 9.7. it has not appointed an administrator, controller or managing controller.

**Executed as an undertaking**

**Executed by [PERSON] in accordance with section 114 of the Regulatory Powers  
(Standard Provisions) Act 2014**

[Redacted Signature]                      [Redacted Signature]  
(Signature of director)                      (Signature of director/company secretary)

[Redacted Name]                      [Redacted Name]  
(Name of director)                      (Name of director/company secretary)

1-20-25  
(Date)

20/1/25  
(Date)

**In the presence of:**

**In the presence of:**

[Redacted Signature]                      [Redacted Signature]  
(Signature of witness)                      (Signature of witness)

[Redacted Name]                      [Redacted Name]  
(Name of witness)                      (Name of witness)

Accepted by the Authorised Person in accordance with section 132 of the *Industrial Chemicals Act 2019* on:



(Signature of Authorised Person)

(Name of Authorised Person)

31/1/2025

(Date)

in the presence of:



(Signature of witness)

(Name of Witness)