

---

STATUTORY RULES OF NORTHERN IRELAND

---

**2000 No. 120**

**Control of Substances Hazardous to Health  
Regulations (Northern Ireland) 2000**

**Citation and commencement**

1. These Regulations may be cited as the Control of Substances Hazardous to Health Regulations (Northern Ireland) 2000 and shall come into operation on 1st June 2000.

**Interpretation**

2.—(1) In these Regulations—

“the 1978 Order” means the Health and Safety at Work (Northern Ireland) Order 1978;

“approved” means approved for the time being in writing;

“approved supply list” has the meaning assigned to it in regulation 4 of the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995(1);

“biological agent” means any micro-organism, cell culture, or human endoparasite, including any which have been genetically modified, which may cause any infection, allergy, toxicity or otherwise create a hazard to human health;

“carcinogen” means—

(a) any substance or preparation which if classified in accordance with the classification provided for by regulation 5 of the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995 would be in the category of danger, carcinogenic (category 1) or carcinogenic (category 2) whether or not the substance or preparation would be required to be classified under those Regulations; or

(b) any substance or preparation—

(i) listed in Schedule 1, or

(ii) arising from a process specified in Schedule 1 which is a substance hazardous to health;

“fumigation” means an operation in which a substance is released into the atmosphere so as to form a gas to control or kill pests or other undesirable organisms;

“the Health and Safety Commission” means the Health and Safety Commission established under section 10 of the Health and Safety at Work etc. Act 1974(2);

“maximum exposure limit” for a substance hazardous to health means the maximum exposure limit approved by the Executive for that substance in relation to the specified reference period when calculated by a method approved by the Executive;

“micro-organism” means a microbiological entity, cellular or non-cellular, which is capable of replication or of transferring genetic material;

---

(1) S.R. 1995 No. 60 as amended by S.R. 1996 No. 376, S.R. 1997 No. 455, S.R. 1998 No. 459 and S.R. 1999 No. 150

(2) 1974 c. 37

“mine” has the meaning assigned to it by section 156 of the Mines Act (Northern Ireland) 1969(3);

“occupational exposure standard” for a substance hazardous to health means the standard approved by the Executive for that substance in relation to the specified reference period when calculated by a method approved by the Executive;

“preparation” means a mixture or solution of two or more substances;

“registered dentist” has the meaning assigned to it by section 53(1) of the Dentists Act 1984(4);

“registered medical practitioner” means a fully registered medical practitioner within the meaning of the Medical Act 1983(5);

“respirable dust” means airborne material which is capable of penetrating to the gas exchange region of the lung;

“substance” means any natural or artificial substance whether in solid or liquid form or in the form of a gas or vapour (including micro-organisms);

“substance hazardous to health” means any substance (including any preparation) which is—

- (a) a substance which is listed in Part I of the approved supply list as dangerous for supply within the meaning of the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 1995 and for which an indication of danger specified for the substance in Part V of that list is very toxic, toxic, harmful, corrosive or irritant;
- (b) a substance for which the Executive has approved a maximum exposure limit or an occupational exposure standard;
- (c) a biological agent;
- (d) dust of any kind, except dust which is a substance within paragraph (a) or (b), when present at a concentration in air equal to or greater than—
  - (i) 10 mg/m<sup>3</sup>, as a time-weighted average over an 8-hour period, of total inhalable dust, or
  - (ii) 4 mg/m<sup>3</sup>, as a time-weighted average over an 8-hour period, of respirable dust;
- (e) a substance, not being a substance mentioned in paragraphs (a) to (d), which creates a hazard to the health of any person which is comparable with the hazards created by substances mentioned in those paragraphs;

“territorial waters” means United Kingdom territorial waters adjacent to Northern Ireland and “within territorial waters” includes on, over and under them;

“total inhalable dust” means airborne material which is capable of entering the nose and mouth during breathing and is thereby available for deposition in the respiratory tract.

(2) In these Regulations, any reference to an employee being exposed to a substance hazardous to health is a reference to the exposure of that employee to a substance hazardous to health arising out of or in connection with work which is under the control of his employer.

### **Duties under these Regulations**

3.—(1) Where any duty is placed by these Regulations on an employer in respect of his employees, he shall, so far as is reasonably practicable, be under a like duty in respect of any other person, whether at work or not, who may be affected by the work carried on by the employer except that the duties of the employer—

---

(3) 1969 c. 6 (N.I.)

(4) 1984 c. 24

(5) 1983 c. 54

- (a) under regulation 11 (health surveillance) shall not extend to persons who are not his employees; and
- (b) under regulations 10 and 12(1) and (2) (which relate respectively to monitoring and information, training, etc.) shall not extend to persons who are not his employees, unless those persons are on the premises where the work is being carried on.

(2) These Regulations shall apply to a self-employed person as they apply to an employer and an employee and as if that self-employed person were both an employer and employee, except that regulations 10 and 11 shall not apply to a self-employed person.

(3) The duties imposed by these Regulations shall not extend to the master or crew of a sea going ship or to the employer of such persons in relation to the normal shipboard activities of a ship's crew under the direction of the master.

### **Prohibitions relating to certain substances**

4.—(1) Those substances described in column 1 of Schedule 2 are prohibited to the extent set out in the corresponding entry in column 2 of that Schedule.

(2) A person shall not supply during the course of or for use at work any of the following substances or articles, namely—

- (a) 2-naphthylamine, benzidine, 4-aminodiphenyl, 4-nitrodiphenyl, their salts and any substance containing any of those compounds in a total concentration equal to or greater than 0.1 per cent. by mass; or
- (b) matches made with white phosphorus.

(3) A person shall not supply during the course of or for use at work, benzene or any substance containing benzene unless its intended use is not prohibited by item 11 of Schedule 2.

### **Application of regulations 6 to 12**

5.—(1) Regulations 6 to 12 shall have effect with a view to protecting persons against risks to their health, whether immediate or delayed, arising from exposure to substances hazardous to health except—

- (a) where and to the extent that the following Regulations apply, namely—
  - (i) the Control of Lead at Work Regulations (Northern Ireland) 1998(6),
  - (ii) the Control of Asbestos at Work Regulations (Northern Ireland) 1988(7);
- (b) where the substance is hazardous to health solely by virtue of its radioactive, explosive or flammable properties, or solely because it is at a high or low temperature or a high pressure;
- (c) where the risk to health is a risk to the health of a person to whom the substance is administered in the course of his medical treatment;
- (d) where the substance hazardous to health is total inhalable dust which is below ground in any mine of coal.

(2) In paragraph (1)(c) “medical treatment” means medical or dental examination or treatment which is conducted by, or under the direction of, a registered medical practitioner or registered dentist and includes any such examination, treatment or administration of any substance conducted for the purpose of research.

(3) Nothing in these Regulations shall prejudice any requirement imposed by or under any statutory provision relating to public health or the protection of the environment.

---

(6) S.R. 1998 No. 281 as amended by S.R. 1999 No. 150

(7) S.R. 1988 No. 74 as amended by S.R. 1993 No. 26 and S.R. 1999 No. 150

### **Assessment of health risks created by work involving substances hazardous to health**

6.—(1) An employer shall not carry on any work which is liable to expose any employees to any substance hazardous to health unless he has made a suitable and sufficient assessment of the risks created by that work to the health of those employees and of the steps that need to be taken to meet the requirements of these Regulations.

(2) The assessment required by paragraph (1) shall be reviewed regularly and forthwith if—

- (a) there is reason to suspect that the assessment is no longer valid; or
- (b) there has been a significant change in the work to which the assessment relates,

and, where as a result of the review, changes in the assessment are required, those changes shall be made.

### **Prevention or control of exposure to substances hazardous to health**

7.—(1) Every employer shall ensure that the exposure of his employees to substances hazardous to health is either prevented or, where this is not reasonably practicable, adequately controlled.

(2) So far as is reasonably practicable, the prevention or adequate control of exposure of employees to a substance hazardous to health, except to a carcinogen or a biological agent, shall be secured by measures other than the provision of personal protective equipment.

(3) Without prejudice to the generality of paragraph (1), where the assessment made under regulation 6 shows that it is not reasonably practicable to prevent exposure to a carcinogen by using an alternative substance or process, the employer shall apply all the following measures, namely—

- (a) the total enclosure of the process and handling systems unless this is not reasonably practicable;
- (b) the use of plant, processes and systems of work which minimise the generation of, or suppress and contain, spills, leaks, dust, fumes and vapours of carcinogens;
- (c) the limitation of the quantities of a carcinogen at the place of work;
- (d) the keeping of the number of persons who might be exposed to a carcinogen to a minimum;
- (e) the prohibition of eating, drinking and smoking in areas that may be contaminated by carcinogens;
- (f) the provision of hygiene measures including adequate washing facilities and regular cleaning of walls and surfaces;
- (g) the designation of those areas and installations which may be contaminated by carcinogens, and the use of suitable and sufficient warning signs; and
- (h) the safe storage, handling and disposal of carcinogens and use of closed and clearly labelled containers.

(4) Where the measures taken in accordance with paragraph (2) or (3), as the case may be, do not prevent, or provide adequate control of, exposure to substances hazardous to health to which those paragraphs apply, then, in addition to taking those measures, the employer shall provide those employees with such suitable personal protective equipment as will adequately control their exposure to those substances.

(5) Any personal protective equipment provided by an employer in pursuance of this regulation shall comply with any provision in the Personal Protective Equipment (EC Directive) Regulations 1992<sup>(8)</sup> which is applicable to that item of personal protective equipment.

(6) Where there is exposure to a substance for which a maximum exposure limit has been approved, the control of exposure shall, so far as the inhalation of that substance is concerned, only

---

(8) S.I. 1992/3139 as amended by S.I. 1993/3074 and S.I. 1994/2326

be treated as being adequate if the level of exposure is reduced so far as is reasonably practicable and in any case below the maximum exposure limit.

(7) Without prejudice to the generality of paragraph (1), where there is exposure to a substance for which an occupational exposure standard has been approved, the control of exposure shall, so far as the inhalation of that substance is concerned, be treated as being adequate if—

- (a) that occupational exposure standard is not exceeded; or
- (b) where that occupational exposure standard is exceeded, the employer identifies the reasons for the standard being exceeded and takes appropriate action to remedy the situation as soon as is reasonably practicable.

(8) Where respiratory protective equipment is provided in pursuance of this regulation, then it shall—

- (a) be suitable for the purpose; and
- (b) comply with paragraph (5) or, where no requirement is imposed by virtue of that paragraph, be of a type approved or shall conform to a standard approved, in either case, by the Executive.

(9) In the event of the failure of a control measure which might result in the escape of carcinogens into the workplace, the employer shall ensure that—

- (a) only those persons who are responsible for the carrying out of repairs and other necessary work are permitted in the affected area and they are provided with suitable respiratory protective equipment and protective clothing; and
- (b) employees and other persons who may be affected are informed of the failure forthwith.

(10) Schedule 3 shall have effect in relation to biological agents.

(11) In this regulation, “adequate” means adequate having regard only to the nature of the substance and the nature and degree of exposure to substances hazardous to health.

#### **Use of control measures, etc.**

**8.—**(1) Every employer who provides any control measure, personal protective equipment or other thing or facility pursuant to these Regulations shall take all reasonable steps to ensure that it is properly used or applied as the case may be.

(2) Every employee shall make full and proper use of any control measure, personal protective equipment or other thing or facility provided pursuant to these Regulations and shall take all reasonable steps to ensure it is returned after use to any accommodation provided for it and, if he discovers any defect therein, shall report it forthwith to his employer.

#### **Maintenance, examination and test of control measures, etc.**

**9.—**(1) Every employer who provides any control measure to meet the requirements of regulation 7 shall ensure that it is maintained in an efficient state, in efficient working order and in good repair and, in the case of personal protective equipment, in a clean condition.

(2) Where engineering controls are provided to meet the requirements of regulation 7, the employer shall ensure that thorough examinations and tests of those engineering controls are carried out—

- (a) in the case of local exhaust ventilation plant, at least once every 14 months, or for local exhaust ventilation plant used in conjunction with a process specified in column 1 of Schedule 4, at not more than the interval specified in the corresponding entry in column 2 of that Schedule;
- (b) in any other case, at suitable intervals.

(3) Where respiratory protective equipment (other than disposable respiratory protective equipment) is provided to meet the requirements of regulation 7, the employer shall ensure that at suitable intervals thorough examinations and, where appropriate, tests of that equipment are carried out.

(4) Every employer shall keep a suitable record of the examinations and tests carried out in pursuance of paragraphs (2) and (3) and of any repairs carried out as a result of those examinations and tests, and that record or a suitable summary thereof shall be kept available for at least 5 years from the date on which it was made.

### **Monitoring exposure at the workplace**

**10.**—(1) In any case in which—

- (a) it is requisite for ensuring the maintenance of adequate control of the exposure of employees to substances hazardous to health; or
- (b) it is otherwise requisite for protecting the health of employees,

the employer shall ensure that the exposure of employees to substances hazardous to health is monitored in accordance with a suitable procedure.

(2) Where a substance or process is specified in column 1 of Schedule 5, monitoring shall be carried out at least at the frequency specified in the corresponding entry in column 2 of that Schedule.

(3) The employer shall keep a suitable record of any monitoring carried out for the purpose of this regulation and that record or a suitable summary thereof shall be kept available—

- (a) where the record is representative of the personal exposures of identifiable employees, for at least 40 years;
- (b) in any other case, for at least 5 years.

### **Health surveillance**

**11.**—(1) Where it is appropriate for the protection of the health of his employees who are, or are liable to be, exposed to a substance hazardous to health, the employer shall ensure that such employees are under suitable health surveillance.

(2) Health surveillance shall be treated as being appropriate where—

- (a) the employee is exposed to one of the substances specified in column 1 of Schedule 6 and is engaged in a process specified in column 2 of that Schedule, unless that exposure is not significant; or
- (b) the exposure of the employee to a substance hazardous to health is such that an identifiable disease or adverse health effect may be related to the exposure, there is a reasonable likelihood that the disease or effect may occur under the particular conditions of his work and there are valid techniques for detecting indications of the disease or the effect.

(3) The employer shall ensure that a health record, containing particulars approved by the Executive, in respect of each of his employees to whom paragraph (1) relates is made and maintained and that that record or a copy thereof is kept in a suitable form for at least 40 years from the date of the last entry made in it.

(4) Where an employer who holds records in accordance with paragraph (3) ceases to trade, he shall forthwith notify the Executive thereof in writing and offer those records to the Executive.

(5) If an employee is exposed to a substance specified in Schedule 6 and is engaged in a process specified therein, the health surveillance required under paragraph (1) shall include medical surveillance under the supervision of an employment medical adviser or appointed doctor at intervals

of not more than 12 months or at such shorter intervals as the employment medical adviser or appointed doctor may require.

(6) Where an employee is subject to medical surveillance in accordance with paragraph (5) and an employment medical adviser or appointed doctor has certified by an entry in the health record of that employee that in his professional opinion that employee should not be engaged in work which exposes him to that substance or that he should only be so engaged under conditions specified in the record, the employer shall not permit the employee to be engaged in such work except in accordance with the conditions, if any, specified in the health record, unless that entry has been cancelled by an employment medical adviser or appointed doctor.

(7) Where an employee is subject to medical surveillance in accordance with paragraph (5) and an employment medical adviser or appointed doctor has certified by an entry in his health record that medical surveillance should be continued after his exposure to that substance has ceased, the employer shall ensure that the medical surveillance of that employee is continued in accordance with that entry while he is employed by the employer, unless that entry has been cancelled by an employment medical adviser or appointed doctor.

(8) On reasonable notice being given, the employer shall allow any of his employees access to the health record which relates to him.

(9) An employee to whom this regulation applies shall, when required by his employer and at the cost of the employer, present himself during his working hours for such health surveillance procedures as may be required for the purposes of paragraph (1) and, in the case of an employee who is subject to medical surveillance in accordance with paragraph (5), shall furnish the employment medical adviser or appointed doctor with such information concerning his health as the employment medical adviser or appointed doctor may reasonably require.

(10) Where, for the purpose of carrying out his functions under these Regulations, an employment medical adviser or appointed doctor requires to inspect any workplace or any record kept for the purposes of these Regulations, the employer shall permit him to do so.

(11) Where an employee or an employer is aggrieved by a decision recorded in the health record by an employment medical adviser or appointed doctor to suspend an employee from work which exposes him to a substance hazardous to health (or to impose conditions on such work), he may, by an application in writing to the Executive within 28 days of the date on which he was notified of the decision, apply for that decision to be reviewed in accordance with a procedure approved for the purposes of this paragraph by the Department of Enterprise, Trade and Investment, and the result of that review shall be notified to the employee and employer and entered in the health record in accordance with the approved procedure.

(12) In this regulation—

“appointed doctor” means a registered medical practitioner who is appointed for the time being in writing by the Executive for the purposes of this regulation;

“employment medical adviser” means an employment medical adviser appointed under Article 48(3) of the 1978 Order;

“health surveillance” includes biological monitoring.

### **Information, instruction and training for persons who may be exposed to substances hazardous to health**

**12.—**(1) An employer who undertakes work which may expose any of his employees to substances hazardous to health shall provide that employee with such information, instruction and training as is suitable and sufficient for him to know—

- (a) the risks to health created by such exposure; and
- (b) the precautions which should be taken.

(2) Without prejudice to the generality of paragraph (1), the information provided under that paragraph shall include—

- (a) information on the results of any monitoring of exposure at the workplace in accordance with regulation 10 and, in particular, in the case of any substance hazardous to health for which a maximum exposure limit has been approved, the employee or his representatives shall be informed forthwith, if the results of such monitoring show that the maximum exposure limit has been exceeded; and
- (b) information on the collective results of any health surveillance undertaken in accordance with regulation 11 in a form calculated to prevent it from being identified as relating to any particular person.

(3) Every employer shall ensure that any person (whether or not his employee) who carries out any work in connection with the employer's duties under these Regulations has the necessary information, instruction and training.

### **Provisions relating to certain fumigations**

**13.**—(1) This regulation shall apply to fumigations in which the fumigant used or intended to be used is hydrogen cyanide, phosphine or methyl bromide, except that paragraph (2) shall not apply to fumigations using the fumigant specified in column 1 of Schedule 7 when the nature of the fumigation is that specified in the corresponding entry in column 2 of that Schedule.

(2) An employer shall not undertake any fumigation to which this regulation applies unless he has—

- (a) notified the persons specified in Part I of Schedule 8 of his intention to undertake the fumigation; and
- (b) provided to those persons the information specified in Part II of that Schedule,

at least 24 hours in advance, or such shorter time in advance, as the persons required to be notified may agree.

(3) An employer who undertakes a fumigation to which this regulation applies shall ensure that, before the fumigation is released, suitable warning notices have been affixed at all points of reasonable access to the premises or to those parts of the premises in which the fumigation is to be carried out and that after the fumigation has been completed, and the premises are safe to enter, those warning notices are removed.

### **Exemption certificates**

**14.**—(1) Subject to paragraph (2), the Executive may, by a certificate in writing, exempt any person or class of persons or any substance or class of substances from any requirement or prohibition imposed by these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by the Executive by a further certificate in writing.

(2) The Executive shall not grant any such exemption unless having regard to the circumstances of the case and, in particular, to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any statutory provisions which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.



## **Application**

15. Within territorial waters these Regulations shall apply only to and in relation to the premises and activities mentioned in paragraphs 2 to 4 of Schedule 9.

## **Defence in proceedings for contravention of these Regulations**

16. In any proceedings for an offence consisting of a contravention of these Regulations it shall be a defence for any person to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of that offence.

## **Exemptions relating to the Ministry of Defence, etc.**

17.—(1) In this regulation, any reference to—

- (a) “visiting forces” is a reference to visiting forces within the meaning of any provision of Part I of the Visiting Forces Act 1952<sup>(9)</sup>; and
- (b) “headquarters or organisation” is a reference to a headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964<sup>(10)</sup>.

(2) The Secretary of State for Defence may, in the interests of national security, by a certificate in writing exempt—

- (a) Her Majesty’s Forces;
- (b) visiting forces;
- (c) any member of a visiting force working in or attached to any headquarters or organisation; or
- (d) any person engaged in work involving substances hazardous to health, if that person is under the direct supervision of a representative of the Secretary of State for Defence,

from all or any of the requirements or prohibitions imposed by these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by the Secretary of State for Defence by a further certificate in writing, except that, where any such exemption is granted, suitable arrangements shall be made for the assessment of the health risks created by the work involving substances hazardous to health and for adequately controlling the exposure to those substances of persons to whom the exemption relates.

(3) Regulation 11(11) shall not apply in relation to—

- (a) visiting forces; or
- (b) any member of a visiting force working in or attached to any headquarters or organisation.

## **Revocations and savings**

18.—(1) The following Regulations are revoked—

- (a) the Control of Substances Hazardous to Health Regulations (Northern Ireland) 1995<sup>(11)</sup>; and
- (b) the Control of Substances Hazardous to Health (Amendment) Regulations (Northern Ireland) 1999<sup>(12)</sup>.

---

<sup>(9)</sup> 1952 c. 67

<sup>(10)</sup> 1964 c. 5

<sup>(11)</sup> S.R. 1995 No. 51

<sup>(12)</sup> S.R. 1999 No. 36

(2) Any record or register required to be kept under any Regulations revoked by paragraph (1) shall, notwithstanding those revocations, be kept in the same manner and for the same period as specified in those Regulations as if these Regulations had not been made, except that the Executive may approve the keeping of records at a place or in a form other than at the place where, or in the form in which, records were required to be kept under the Regulations so revoked.

**Extension of meaning of “work” and “at work”**

19. For the purposes of Part II of the 1978 Order the meaning of “work” shall be extended to include any activity involving the consignment, storage or use of any of the biological agents listed in Part V of Schedule 3 and the meaning of “at work” shall be extended accordingly, and in that connection the references to employer in paragraphs 12 and 13 of that Schedule include references to any person carrying on such an activity.

**Modification of Article 5(2) of the 1978 Order**

20. Article 5(2) of the 1978 Order shall be modified in relation to an activity involving the consignment, storage or use of any of the biological agents referred to in regulation 19 so as to have effect as if the reference therein to a self-employed person is a reference to any person who is not an employer or an employee and the reference therein to his undertaking includes a reference to such an activity.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 31st March 2000.

L.S.

*Adrianne L. Brown*  
A senior officer of the  
Department of Enterprise, Trade and Investment