STATUTORY RULES OF NORTHERN IRELAND

2003 No. 35

HEALTH AND SAFETY

Control of Lead at Work Regulations (Northern Ireland) 2003

Made - - - -	*24th January 2003*
Coming into operation	*28th February 2003*

The Department of Enterprise, Trade and Investment(**1**), being the Department concerned(**2**), in exercise of the powers conferred on it by Articles 17(1) to (6)(**3**) and 55(2) of, and paragraphs 1(1) and (2), 2(2), 5(1), 6, 7, 8, 9, 10, 12(1) and (3), 13, 14(1) and 15 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**4**) and of every other power enabling it in that behalf and for the purpose of giving effect without modifications to proposals submitted to it by the Health and Safety Executive for Northern Ireland under Article 13(1A) of that Order(**5**) after the carrying out by the said Executive of consultations in accordance with Article 46(3) of that Order(**6**), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Control of Lead at Work Regulations (Northern Ireland) 2003 and shall come into operation on 28th February 2003.

Interpretation

2.—(1) In these Regulations:

"action level" in the case of any person means a blood-lead concentration of–

(a) in respect of a woman of reproductive capacity, 25 µg/dl;

(b) in respect of a young person, 40 µg/dl; or

(c) in respect of any other employee, 50 µg/dl;

"appointed doctor" means a registered medical practitioner appointed for the time being in writing by the Executive for the purpose of these Regulations;

"approved" means approved for the time being in writing by the Executive;

(**1**) Formerly the Department of Economic Development: *see*S.I. 1999/283 (N.I. 1) Article 3(5)
(**2**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**3**) Article 17 must be read with S.I. 1992/1728 (N.I. 17), Articles 3(2) and 4(2)
(**4**) S.I. 1978/1039 (N.I. 9); the general purposes of Part II referred to in Article 17(1) were extended by S.I. 1992/1728 (N.I. 17), Article 3(1). Article 47A was inserted by Article 3, and Article 2 was amended by Articles 4 and 8, of S.I. 1997/1774 (N.I. 16)
(**5**) Article 13(1) was substituted by S.I. 1998/2795 (N.I. 18), Article 4
(**6**) Article 46(3) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraphs 8 and 18(c)

"biological monitoring" includes the measuring of a person's blood-lead concentration or urinary lead concentration by atomic absorption spectroscopy;

"control measure" means a measure taken to reduce exposure to lead (including the provision of systems of work and supervision, the cleaning of workplaces, premises, plant and equipment, the provision and use of engineering controls and personal protective equipment);

"employment medical adviser" means an employment medical adviser appointed under Article 48 of the Health and Safety at Work (Northern Ireland) Order 1978;

"the Executive" means the Health and Safety Executive for Northern Ireland;

"glaze" does not include engobe or slip;

"hazard" means the intrinsic property of lead which has the potential to cause harm to the health of a person;

"lead" means lead (including lead alkyls, lead alloys, any compounds of lead and lead as a constituent of any substance or material) which is liable to be inhaled, ingested or otherwise absorbed by persons except where it is given off from the exhaust system of a vehicle on a road within the meaning of Article 2 of the Road Traffic (Northern Ireland) Order 1995(**7**);

"lead alkyls" means tetraethyl lead or tetramethyl lead;

"leadless glaze" means a glaze which contains less than 0.5 per cent lead by weight of the element lead calculated with reference to the total weight of the preparation;

"low solubility glaze" means a glaze which does not yield to dilute hydrochloric acid more than 5 per cent of its dry weight of a soluble lead compound when determined in accordance with an approved method;

"medical surveillance" means assessment of the state of health of an employee, as related to exposure to lead, and includes clinical assessment and biological monitoring;

"occupational exposure limit for lead" means in relation to–

(a) lead other than lead alkyls, a concentration of lead in the atmosphere to which any employee is exposed of 0.15 mg/m^3; and

(b) lead alkyls, a concentration of lead contained in lead alkyls in the atmosphere to which any employee is exposed of 0.10 mg/m^3,

assessed–

(i) by reference to the content of the element lead in the concentration, and

(ii) in relation to an 8-hour time-weighted average reference period when calculated by an approved method;

"personal protective equipment" means all equipment (including clothing) which is intended to be worn or held by a person at work and which protects that person against one or more risks to his health, and any addition or accessory designed to meet that objective;

"public road" includes any part of a public road and any bridge or tunnel over or through which passes a public road, as defined by Article 2 of the Road Traffic (Northern Ireland) Order 1995;

"registered medical practitioner" means a fully registered person within the meaning of the Medical Act 1983(**8**);

"relevant doctor" means an appointed doctor or an employment medical adviser;

"risk", in relation to the exposure of an employee to lead, means the likelihood that the potential for harm to the health of a person will be attained under the conditions of use and exposure and also the extent of that harm;

(**7**) S.I. 1995/2994 (N.I. 18)
(**8**) 1983 c. 54

"the risk assessment" means the assessment of risk required by regulation 5(1)(a);

"safety data sheet" means a safety data sheet within the meaning of regulation 5 of the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002(**9**);

"significant" in relation to exposure to lead means exposure in the following circumstances–

(a) where any employee is or is liable to be exposed to a concentration of lead in the atmosphere exceeding half the occupational exposure limit for lead;

(b) where there is a substantial risk of any employee ingesting lead; or

(c) where there is a risk of contact between the skin and lead alkyls or other substances containing lead which can be absorbed through the skin;

"substance hazardous to health" has the meaning assigned to it in regulation 2(1) of the Control of Substances Hazardous to Health Regulations (Northern Ireland) 2003(**10**);

"suspension level" in the case of any person means–

(a) a blood-lead concentration of–

(i) in respect of a woman of reproductive capacity, 30 µg/dl,

(ii) in respect of a young person, 50 µg/dl, or

(iii) in respect of any other employee, 60 µg/dl; or

(b) a urinary lead concentration of–

(i) in respect of a woman of reproductive capacity, 25 µg Pb/g creatinine, or

(ii) in respect of any other employee, 110 µg Pb/g creatinine;

"territorial sea" means the territorial sea of the United Kingdom adjacent to Northern Ireland and "within the territorial sea" includes on, over and under it;

"woman of reproductive capacity" means an employee in respect of whom an entry has been made to that effect in that employee's health record in accordance with regulation 10(14) by a relevant doctor;

"workplace" means any premises or part of premises used for or in connection with work, and includes–

(a) any place within the premises to which an employee has access while at work; and

(b) any room, lobby, corridor, staircase, road or other place–

(i) used as a means of access to or egress from that place of work, or

(ii) where facilities are provided for use in connection with that place of work,

other than a public road;

"young person" means a person who has not attained the age of 18 and who is not a woman of reproductive capacity.

(2) Any reference in these Regulations to either–

(a) an employee being exposed to lead; or

(b) any place being contaminated by lead,

is a reference to exposure to or, as the case may be, contamination by lead arising out of or in connection with work at the workplace.

(**9**) S.R. 2002 No. 301
(**10**) S.R. 2003 No. 34

Duties under these Regulations

3.—(1) Where a 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 out by the employer except that the duties of the employer–

(a) under regulation 10 (medical surveillance) shall not extend to persons who are not his employees other than employees of another employer who are working under the direction of the first-mentioned employer; and

(b) under regulations 9, 11(1) and (2) and 12 (which relate respectively to monitoring, information and training and dealing with accidents) shall not extend to persons who are not his employees, unless those persons are on the premises where the work in respect of which the duty arises is being carried out.

(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 an employee, except that regulation 9 (air monitoring) 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

4.—(1) An employer shall not use a glaze other than a leadless glaze or a low solubility glaze in the manufacture of pottery.

(2) An employer shall not employ a young person or a woman of reproductive capacity in any activity specified in Schedule 1.

Assessment of the risk to health created by work involving lead

5.—(1) An employer shall not carry out work which is liable to expose any employees to lead unless he has–

(a) made a suitable and sufficient assessment of the risk 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; and

(b) implemented the steps referred to in sub-paragraph (a).

(2) The risk assessment shall include consideration of–

(a) the hazardous properties of the lead;

(b) information on health effects provided by the supplier, including information contained in any relevant safety data sheet;

(c) the level, type and duration of exposure;

(d) the circumstances of the work, including the amount of lead involved;

(e) activities, such as maintenance, where there is the potential for a high level of exposure;

(f) any relevant occupational exposure limit, action level and suspension level;

(g) the effect of preventive and control measures which have been or will be taken in accordance with regulation 6;

(h) the results of relevant medical surveillance;

(i) the results of monitoring of exposure in accordance with regulation 9;

(j) in circumstances where the work will involve exposure to lead and another substance hazardous to health, the risk presented by exposure to those substances in combination;

(k) whether the exposure of any employee to lead is liable to be significant; and

(l) such additional information as the employer may need in order to complete the risk assessment.

(3) The risk assessment shall be reviewed regularly and forthwith if–

(a) there is reason to suspect that the risk assessment is no longer valid;

(b) there has been a significant change in the work to which the risk assessment relates;

(c) the results of any monitoring carried out in accordance with regulation 9 show it to be necessary; or

(d) the blood-lead concentration of any employee under medical surveillance in accordance with regulation 10 equals or exceeds the action level,

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

(4) Where the employer employs five or more employees, he shall record–

(a) the significant findings of the risk assessment as soon as is practicable after the risk assessment is made; and

(b) the steps which he has taken to meet the requirements of regulation 6.

Prevention or control of exposure to lead

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

(2) In complying with his duty of prevention under paragraph (1), substitution shall by preference be undertaken, whereby the employer shall avoid, so far as is reasonably practicable, the use of lead at the workplace by replacing it with a substance or process which, under the conditions of its use, either eliminates or reduces the risk to the health of his employees.

(3) Where it is not reasonably practicable to prevent exposure to lead, the employer shall comply with his duty of control under paragraph (1) by applying protection measures appropriate to the activity and consistent with the risk assessment, including, in order of priority–

(a) the design and use of appropriate work processes, systems and engineering controls and the provision and use of suitable work equipment and materials;

(b) the control of exposure at source, including adequate ventilation systems and appropriate organizational measures; and

(c) where adequate control of exposure cannot be achieved by other means, the provision of suitable personal protective equipment in addition to the measures required by sub-paragraphs (a) and (b).

(4) The measures referred to in paragraph (3) shall include–

(a) arrangements for the safe handling, storage and transport of lead, and of waste containing lead, at the workplace;

(b) the adoption of suitable maintenance procedures;

(c) reducing, to the minimum required for the work concerned–

(i) the number of employees subject to exposure,

(ii) the level and duration of exposure, and

(iii) the quantity of lead present at the workplace;