1995 No. 51

HEALTH AND SAFETY

Control of Substances Hazardous to Health Regulations (Northern Ireland) 1995

Made . . . . . *24th February 1995*

Coming into operation . . *30th March 1995*

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The Department of Agriculture and the Department of Economic Development acting jointly as the Department concerned(**a**) in exercise of the powers conferred by Articles 2(5), 17(1) to (6), and 55(2) of and paragraphs 1(1) and (2), 2(1), 5(1), 7, 8, 10, 12(1) and (3), 13, 14(1) and 15 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**b**) and of every other power enabling them in that behalf, after consultation in accordance with Article 46(1) of that Order with the Health and Safety Agency for Northern Ireland and such other bodies as appeared to them to be appropriate, hereby make the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Control of Substances Hazardous to Health Regulations (Northern Ireland) 1995 and shall come into operation on 30th March 1995.

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 by the Department;

"approved supply list" has the meaning assigned to it in regulation 4(1) of the Chemicals (Hazard Information and Packaging) Regulations (Northern Ireland) 1993(**c**);

"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) Regulations (Northern Ireland) 1993 would be in the category of danger, carcinogenic (category 1) or carcinogenic (category 2) whether or

(a) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(b) S.I. 1978/1039 (N.I. 9) to which there are amendments not relevant to these Regulations
(c) S.R. 1993 No. 412

not the substance or preparation would be required to be classified under those Regulations; or

(*b*) any substance or preparation—

(i) listed in Schedule 8; and

(ii) any substance or preparation arising from a process specified in Schedule 8 which is a substance hazardous to health;

"the Department" means the Department of Economic Development;

"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;

"maximum exposure limit" for a substance hazardous to health means the maximum exposure limit for that substance set out in Schedule 1 in relation to the reference period specified therein when calculated by an approved method;

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

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

"registered dentist" has the same meaning as in section 53(1) of the Dentists Act 1984(**a**);

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

"statutory provision" has the same meaning as in section 1(*f*) of the Interpretation Act (Northern Ireland) 1954(**c**);

"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) Regulations (Northern Ireland) 1993 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 specified in Schedule 1 (which lists substances assigned maximum exposure limits) or for which an occupational exposure standard has been approved;

(**a**) 1984 c. 24
(**b**) 1983 c. 54
(**c**) 1954 c. 33 (N.I.)

(*c*) a biological agent;

(*d*) dust of any kind, when present at a substantial concentration in air;

(*e*) a substance, not being a substance mentioned in sub-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 sub-paragraphs.

(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—

(*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, instruction and training) 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.

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

(*a*) 2-naphtylamine, 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;

(*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 9 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 either of the following Regulations apply, namely—

(i) the Control of Lead at Work Regulations (Northern Ireland) 1986(**a**), or

(ii) the Control of Asbestos at Work Regulations (Northern Ireland) 1988(**b**);

(*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; or

(*d*) below ground in any mine within the meaning of section 156 of the Mines Act (Northern Ireland) 1969(**c**).

(2) In paragraph 1(*c*) "medical treatment" means medical or dental examination or treatment which is conducted 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.

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.

(a) S.R. 1986 No. 36 amended by S.R. 1993 No. 20 as amended by S.I. 1994/2326

(b) S.R. 1988 No. 74 amended by S.R. 1993 No. 20 as amended by S.I. 1994/2326, S.R. 1993 No. 26, S.R. 1993 No. 412

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