1986 No. 36

HEALTH AND SAFETY

Control of Lead at Work Regulations (Northern Ireland) 1986

Made . . . . . *31st January 1986*

Coming into operation . . . *6th March 1986*

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SCHEDULE 1 — Repeals of provisions of the Factories Act (Northern Ireland) 1965.

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The Department of Agriculture, the Department of Economic Development, the Department of the Environment and the Department of Health and Social Services, acting jointly as the Department concerned(**a**) in exercise of the powers conferred by Article 17(1), (2), (3), (4), (5) and (6), and paragraphs 1(1), 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(**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 appear to them to be appropriate, hereby make the following Regulations:—

(**a**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**b**) S.I. 1978/1039 (N.I. 9)

Citation and commencement

1. These Regulations may be cited as the Control of Lead at Work Regulations (Northern Ireland) 1985 and shall come into operation on 6th March 1986.

Interpretation

2.—(1) In these Regulations—

"adequate" means adequate having regard only to the nature and degree of exposure to lead;

"the Department" means the Department of Economic Development;

"lead" means lead (including 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 1981(**a**).

"the Order" means the Health and Safety at Work (Northern Ireland) Order 1978.

(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, contamination by lead arising out of work being carried on by the employer.

Duty of employer to persons at work who are not his employees

3. 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 who is at work on the premises where the work with lead is being carried on and who is, or is liable to be, exposed to lead from that work.

Assessment of work which exposes persons to lead

4.—(1) Where any work may expose persons to lead, the employer or self-employed person, shall assess that work to determine the nature and degree of the exposure to lead.

(2) The assessment required by paragraph (1) shall be made—

(*a*) in the case of work being carried out immediately before the date of coming into operation of these Regulations within 4 weeks of that date;

(*b*) in any other case, before the work is commenced.

(3) An assessment shall be revised—

(*a*) when there is reason to suspect that it is incorrect;

(*b*) when there is a material change in the work;

(*c*) when requested by an inspector appointed under Article 21(1) of the Order.

Information, instruction and training

5. Every employer shall ensure that adequate information, instruction and training is given to his employees—

(*a*) who are liable to be exposed to lead so that they are aware of the risks from lead and the precautions which should be observed;

(*b*) who carry out any work in connection with the employer's duties under regulations 4, 11, 13, 14 and 15 so that they can carry out that work effectively.

(**a**) S.I. 1981/154 (N.I. 1)

Control measures for materials, plant and processes

6. Every employer shall, so far as is reasonably practicable, provide such control measures for materials, plant and processes as will adequately control the exposure of his employees to lead otherwise than by the use of respiratory protective equipment or protective clothing by those employees.

Respiratory protective equipment

7. Every employer shall provide each employee who is liable to be exposed to airborne lead with such respiratory protective equipment of a type approved in writing by the Department as will adequately protect him against that airborne lead unless the control measures adopted in compliance with regulation 6 provide him with adequate protection.

Protective clothing

8. Every employer shall provide each employee who is liable to be exposed to lead with adequate protective clothing unless the exposure to lead is not significant.

Washing and changing facilities

9. Every employer shall provide for his employees who are liable to be exposed to lead—

(*a*) adequate washing facilities; and

(*b*) where he is required under regulation 8 to provide protective clothing, adequate changing facilities and adequate facilities for the storage of—

(i) that protective clothing; and

(ii) personal clothing not worn during working hours;

so however that this regulation shall not apply during the period of 12 months after the coming into operation of these Regulations where in order to comply with this regulation it would be necessary to erect a new building or make substantial structural alterations to a building.

Eating, drinking and smoking

10.—(1) Every employer shall take such steps as are adequate to secure that—

(*a*) so far as is reasonably practicable, his employees do not eat, drink or smoke in any place which is or is liable to be contaminated by lead;

(*b*) suitable arrangements are made for such employees to eat, drink or smoke in a place which is not liable to be contaminated by lead.

(2) An employee shall not eat, drink or smoke in any place which he has reason to believe to be contaminated by lead.

(3) Nothing in this regulation shall prevent the provision and use of drinking facilities which are not liable to be contaminated by lead where such facilities are required for the welfare of employees who are exposed to lead.

Cleaning

11. Where an employee is liable to be exposed to lead, the employer shall take adequate steps to secure the cleanliness of work places, premises, plant, respiratory protective equipment and protective clothing.

Duty to avoid spread of contamination by lead

12.—(1) Every employer, his employees and every self-employed person shall, so far as is reasonably practicable, prevent the spread of contamination by lead from the place where work is being carried out.

(2) Nothing in paragraph (1) shall prejudice any other requirements imposed by or under any enactment which relates to preventing the spread of contamination by lead.

Use of control measures, etc.

13.—(1) Every employer who provides any control measure, respiratory protective equipment, protective clothing or other thing or facility pursuant to regulations 6 to 12 shall ensure, so far as is reasonably practicable, 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, respiratory protective equipment, protective clothing or other thing or facility provided pursuant to regulations 6 to 12; and if he discovers any defect therein he shall report it forthwith to his employer.

Maintenance of control measures, etc.

14. Every employer who provides any control measure, respiratory protective equipment, protective clothing or other thing or facility pursuant to regulations 6 to 12 shall ensure, so far as is practicable, that it is maintained in an efficient state, in efficient working order and good repair.

Air monitoring

15. Every employer shall—

(*a*) have adequate monitoring procedures to measure the concentrations of lead in air to which his employees are exposed unless the exposure is not significant;

(*b*) measure the concentration of lead in air in accordance with those procedures.

Medical surveillance and biological tests

16.—(1) Every employer shall secure that each of his employees who is employed on work which exposes that employee to lead is under medical surveillance by an employment medical adviser or appointed doctor if either—

(*a*) the exposure of that employee to lead is significant; or

(*b*) an employment medical adviser or appointed doctor certifies that the employee should be under medical surveillance;

and where the employment medical adviser or appointed doctor has certified that in his opinion the employee should not be employed on work which exposes him to lead or that he should only be so employeed under the conditions specified in the certificate the employer shall not expose that employee to lead except under the conditions, if any, specified in the certificate.

(2) Every employee who is exposed to lead at work shall, when required by the employer, present himself, during his normal working hours, for such medical examination or biological tests as may be required for the purposes of paragraph (1).

(3) In this regulation—

"medical surveillance" includes biological tests;

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

"appointed doctor" means a registered medical practitioner who is appointed in writing by the Department for the purposes of this regulation.

Records

17.—(1) Every employer shall—

(*a*) ensure that adequate records are kept of the assessments, maintenance, air monitoring, medical surveillance and biological tests required by regulations 4, 14, 15 and 16 respectively;

(*b*) make those records available for inspection by employees, except that this sub-paragraph shall not apply to the health record of an identifiable individual.

(2) An entry in the records shall be kept for two years from the date on which the entry was made, except in the case of an entry relating to an assessment made under regulation 4 which shall be kept until whichever is the earlier of the following dates—

(*a*) two years from the date on which that assessment was revised;

(*b*) two years from the date on which the work to which that assessment related ceased.

Exemption certificates

18.—(1) Subject to paragraph (2) the Department may, by certificate in writing, exempt any person or class of person 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.

(2) The Department shall not grant any such exemption unless having regard 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 enactments 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.

Repeals, revocations and modifications

19.—(1) The provisions of the Factories Act (Northern Ireland) 1965(**a**) specified in column 1 of Schedule 1 are hereby repealed to the extent set out opposite thereto in column 2.

(2) The Statutory Provisions specified in column 1 of Schedule 2 are hereby revoked to the extent set out opposite thereto in column 2.

(3) The Construction (Health and Welfare) Regulations (Northern Ireland) 1967(**b**) shall cease to have effect in relation to lead.

Sealed with the Official Seal of the Department of Agriculture on 31st January 1986.

(L.S.) *K. E. Brady*
Assistant Secretary

Sealed with the Official Seal of the Department of Economic Development on 31st January 1986.

(L.S.) *S. Cooper*
Assistant Secretary

Sealed with the Official Seal of the Department of the Environment on 31st January 1986.

(L.S.) *J. M. Irvine*
Assistant Secretary

(**a**) 1965 c. 20 (N.I.) as amended by S.R. 1979 No. 246
(**b**) S.R. & O. (N.I.) 1967 No. 176