
STATUTORY RULES OF NORTHERN IRELAND

2003 No. 34

**Control of Substances Hazardous to Health
Regulations (Northern Ireland) 2003**

Citation and commencement

1. These Regulations may be cited as the Control of Substances Hazardous to Health Regulations (Northern Ireland) 2003 and shall come into operation on 28th February 2003.

Interpretation

2.—(1) In these Regulations—

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

“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;

“approved classification” of a biological agent means the classification of that agent approved by the Executive;

“approved supply list” has the meaning assigned to it in regulation 2(1) of the CHIP Regulations;

“biological agent” means a micro-organism, cell culture, or human endoparasite, whether or not genetically modified, which may cause infection, allergy, toxicity or otherwise create a hazard to human health;

“carcinogen” means—

(a) a substance or preparation which if classified in accordance with the classification provided for by regulation 4 of the CHIP Regulations 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) a 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;

“cell culture” means the in-vitro growth of cells derived from multicellular organisms;

“the CHIP Regulations” means the Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002(1);

“control measure” means a measure taken to reduce exposure to a substance hazardous to health (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(3) of the 1978 Order;

“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;

“Group”, in relation to a biological agent, means one of the four hazard Groups specified in paragraph 2 of Schedule 3 to which that agent is assigned;

“hazard”, in relation to a substance, means the intrinsic property of that substance which has the potential to cause harm to the health of a person;

“health surveillance” means assessment of the state of health of an employee, as related to exposure to substances hazardous to health, and includes biological monitoring;

“health record” means any record kept under regulation 11(3) and in relation to any employee “personal health record” means any such record as relates to him;

“inhalable dust” means airborne material which is capable of entering the nose and mouth during breathing, as defined by BS EN 481 1993;

“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;

“medical examination” includes any laboratory tests and X-rays that a relevant doctor may require;

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

“monitoring record” means any record kept under regulation 10(5) and in relation to any employee “personal monitoring record” means any such record as relates to him;

“mine” has the meaning assigned to it by section 156 of the Mines Act (Northern Ireland) 1969(2);

“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;

“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;

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

“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(3);

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

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

“relevant doctor” means an appointed doctor or an employment medical adviser;

“respirable dust” means airborne material which is capable of penetrating to the gas exchange region of the lung, as defined by BS EN 481 1993;

(2) 1969 c. 6 (N.I.)
(3) S.I. 1995/2994 (N.I. 18)
(4) 1984 c. 24
(5) 1983 c. 54

“risk”, in relation to the exposure of an employee to a substance hazardous to health, 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;

“the risk assessment” means the assessment of risk required by regulation 6(1)(a);

“safety data sheet” means a safety data sheet within the meaning of regulation 5 of the CHIP Regulations;

“substance” means a 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 a substance (including a preparation)–

- (a) which is listed in Part I of the approved supply list as dangerous for supply within the meaning of the CHIP Regulations and for which an indication of danger specified for the substance is very toxic, toxic, harmful, corrosive or irritant;
- (b) for which the Executive has approved a maximum exposure limit or an occupational exposure standard;
- (c) which is a biological agent;
- (d) which is 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/m³, as a time-weighted average over an 8-hour period, of inhalable dust; or
 - (ii) 4 mg/m³, as a time-weighted average over an 8-hour period, of respirable dust;
- (e) which, not being a substance falling within sub-paragraphs (a) to (d), because of its chemical or toxicological properties and the way it is used or is present at the workplace creates a risk to health;

“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;

“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.

(2) In these Regulations, a 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 at the workplace.

(3) Where a biological agent has an approved classification, any reference in these Regulations to a particular Group in relation to that agent shall be taken as a reference to the Group to which that agent has been assigned in that approved classification.

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 11 (health surveillance) shall not extend to persons who are not his employees; and

(b) under regulations 10, 12(1) and (2) and 13 (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 to which the duty relates 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 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;
- (b) matches made with white phosphorus.

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

Application of regulations 6 to 13

5.—(1) Regulations 6 to 13 shall have effect with a view to protecting persons against a risk 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) 2003⁽⁶⁾; or
 - (ii) the Control of Asbestos at Work Regulations (Northern Ireland) 2003⁽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.

(2) In paragraph (1)(c) “medical treatment” means medical or dental examination or treatment which is conducted by, or under the direction of, a—

- (a) registered medical practitioner;
- (b) registered dentist; or
- (c) other person who is an appropriate practitioner for the purposes of section 58 of the Medicines Act 1968⁽⁸⁾,

and includes any such examination or treatment conducted for the purpose of research.

⁽⁶⁾ S.R. 2003 No. 35

⁽⁷⁾ S.R. 2003 No. 33

⁽⁸⁾ 1968 c. 67

Assessment of the risk to health created by work involving substances hazardous to health

6.—(1) An employer shall not carry out work which is liable to expose any employees to any substance hazardous to health 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 substance;
 - (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 the substance involved;
 - (e) activities, such as maintenance, where there is the potential for a high level of exposure;
 - (f) any relevant occupational exposure standard, maximum exposure limit or similar occupational exposure limit;
 - (g) the effect of preventive and control measures which have been or will be taken in accordance with regulation 7;
 - (h) the results of relevant health surveillance;
 - (i) the results of monitoring of exposure in accordance with regulation 10;
 - (j) in circumstances where the work will involve exposure to more than one substance hazardous to health, the risk presented by exposure to such substances in combination;
 - (k) the approved classification of any biological agent; 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 in any event 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; or
 - (c) the results of any monitoring carried out in accordance with regulation 10 show it to be necessary,

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 7.

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) 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 a

substance hazardous to health 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 a substance hazardous to health, 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 subparagraphs (a) and (b).

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

- (a) arrangements for the safe handling, storage and transport of substances hazardous to health, and of waste containing such substances, 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 substances hazardous to health present at the workplace;
- (d) the control of the working environment, including appropriate general ventilation; and
- (e) appropriate hygiene measures including adequate washing facilities.

(5) Without prejudice to the generality of paragraph (1), where it is not reasonably practicable to prevent exposure to a carcinogen, the employer shall apply the following measures in addition to those required by paragraph (3)—

- (a) totally enclosing the process and handling systems, unless this is not reasonably practicable;
- (b) the prohibition of eating, drinking and smoking in areas that may be contaminated by carcinogens;
- (c) cleaning floors, walls and other surfaces at regular intervals and whenever necessary;
- (d) designating those areas and installations which may be contaminated by carcinogens and using suitable and sufficient warning signs; and
- (e) storing, handling and disposing of carcinogens safely, including using closed and clearly labelled containers.

(6) Without prejudice to the generality of paragraph (1), where it is not reasonably practicable to prevent exposure to a biological agent, the employer shall apply the following measures in addition to those required by paragraph (3)—

- (a) displaying suitable and sufficient warning signs, including the biohazard sign shown in Part IV of Schedule 3;
- (b) specifying appropriate decontamination and disinfection procedures;
- (c) instituting means for the safe collection, storage and disposal of contaminated waste, including the use of secure and identifiable containers, after suitable treatment where appropriate;

- (d) testing, where it is necessary and technically possible, for the presence, outside the primary physical confinement, of biological agents used at work;
 - (e) specifying procedures for working with, and transporting at the workplace, a biological agent or material that may contain such an agent;
 - (f) where appropriate, making available effective vaccines for those employees who are not already immune to the biological agent to which they are exposed or are liable to be exposed;
 - (g) instituting hygiene measures compatible with the aim of preventing or reducing the accidental transfer or release of a biological agent from the workplace, including—
 - (i) the provision of appropriate and adequate washing and toilet facilities; and
 - (ii) where appropriate, the prohibition of eating, drinking, smoking and the application of cosmetics in working areas where there is a risk of contamination by biological agents; and
 - (h) where there are human patients or animals which are, or are suspected of being, infected with a Group 3 or 4 biological agent, the employer shall select the most suitable control and containment measures from those listed in Part II of Schedule 3 with a view to controlling adequately the risk of infection.
- (7) Without prejudice to the generality of paragraph (1), where there is exposure to a substance for which a maximum exposure limit has been approved, control of exposure shall, so far as the inhalation of that substance is concerned, only 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.
- (8) Without prejudice to the generality of paragraph (1), where there is exposure to a substance for which an occupational exposure standard has been approved, control of exposure shall, so far as the inhalation of that substance is concerned, only 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.
- (9) Personal protective equipment provided by an employer in accordance with this regulation shall be suitable for the purpose and shall—
- (a) comply with any provision in the Personal Protective Equipment Regulations 2002⁽⁹⁾ which is applicable to that item of personal protective equipment; or
 - (b) in the case of respiratory protective equipment, where no provision referred to in subparagraph (a) applies, be of a type approved or shall conform to a standard approved, in either case, by the Executive.
- (10) Without prejudice to the provisions of this regulation, Schedule 3 shall have effect in relation to work with 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, other thing or facility in accordance with these Regulations shall take all reasonable steps to ensure that it is properly used or applied as the case may be.

(9) [S.I. 2002/1144](#)

(2) Every employee shall make full and proper use of any control measure, other thing or facility provided in accordance with these Regulations and, where relevant, shall—

- (a) take all reasonable steps to ensure it is returned after use to any accommodation provided for it; and
- (b) if he discovers a defect therein, report it forthwith to his employer.

Maintenance, examination and testing of control measures

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

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

- (a) in the case of local exhaust ventilation plant, at least once every fourteen 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; or
- (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 thorough examination and, where appropriate, testing of that equipment is carried out at suitable intervals.

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

(5) Every employer shall ensure that personal protective equipment, including protective clothing, is—

- (a) properly stored in a well-defined place;
- (b) checked at suitable intervals; and
- (c) when discovered to be defective, repaired or replaced before further use.

(6) Personal protective equipment which may be contaminated by a substance hazardous to health shall be removed on leaving the working area and kept apart from uncontaminated clothing and equipment.

(7) The employer shall ensure that the equipment referred to in paragraph (6) is subsequently decontaminated and cleaned or, if necessary, destroyed.

Monitoring exposure at the workplace

10.—(1) Where the risk assessment indicates that—

- (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) Paragraph (1) shall not apply where the employer is able to demonstrate by another method of evaluation that the requirements of regulation 7(1) have been complied with.

- (3) The monitoring referred to in paragraph (1) shall take place—
 - (a) at regular intervals; and
 - (b) when any change occurs which may affect that exposure.
- (4) 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.
- (5) The employer shall ensure that a suitable record of monitoring carried out for the purpose of this regulation is made and maintained and that that record or a suitable summary thereof is kept available—
 - (a) where the record is representative of the personal exposures of identifiable employees, for at least 40 years; or
 - (b) in any other case, for at least five years,from the date of the last entry made in it.
- (6) Where an employee is required by regulation 11 to be under health surveillance, an individual record of any monitoring carried out in accordance with this regulation shall be made, maintained and kept in respect of that employee.
- (7) The employer shall—
 - (a) on reasonable notice being given, allow an employee access to his personal monitoring record;
 - (b) provide the Executive with copies of such monitoring records as the Executive may require; and
 - (c) if he ceases to trade, notify forthwith the Executive thereof in writing and make available to the Executive all monitoring records kept by him.

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, and there is a reasonable likelihood that an identifiable disease or adverse health effect will result from that exposure; or
 - (b) the exposure of the employee to a substance hazardous to health is such that—
 - (i) an identifiable disease or adverse health effect may be related to the exposure;
 - (ii) there is a reasonable likelihood that the disease or effect may occur under the particular conditions of his work; and
 - (iii) there are valid techniques for detecting indications of the disease or effect, and the technique of investigation is of no or low risk to the employee.
 - (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) applies, is made and maintained and that that record or a copy thereof is kept available in a suitable form for at least 40 years from the date of the last entry made in it.
 - (4) The employer shall—
 - (a) on reasonable notice being given, allow an employee access to his personal health record;

- (b) provide the Executive with copies of such health records as the Executive may require; and
- (c) if he ceases to trade, notify the Executive forthwith in writing and make available to the Executive all health records kept by him.

(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 a relevant doctor at intervals of not more than twelve months or at such shorter intervals as the relevant doctor may require.

(6) Where an employee is subject to medical surveillance in accordance with paragraph (5) and a relevant 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 a relevant doctor.

(7) Where an employee is subject to medical surveillance in accordance with paragraph (5) and a relevant 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 a relevant doctor.

(8) 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 relevant doctor with such information concerning his health as the relevant doctor may reasonably require.

(9) Where, as a result of health surveillance, an employee is found to have an identifiable disease or adverse health effect which is considered by a relevant doctor or other occupational health professional to be the result of exposure to a substance hazardous to health the employer of that employee shall—

- (a) ensure that a suitably qualified person informs the employee accordingly and provides the employee with information and advice regarding further health surveillance;
- (b) review the risk assessment;
- (c) review any measure taken to comply with regulation 7, taking into account any advice given by a relevant doctor, occupational health professional or by the Executive;
- (d) consider assigning the employee to alternative work where there is no risk of further exposure to that substance, taking into account any advice given by a relevant doctor or occupational health professional; and
- (e) provide for a review of the health of any other employee who has been similarly exposed, including a medical examination where such an examination is recommended by a relevant doctor, occupational health professional or by the Executive.

(10) Where, for the purpose of carrying out his functions under these Regulations, a relevant 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 a relevant 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.

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

12.—(1) Every employer who undertakes work which is liable to expose an employee to a substance hazardous to health shall provide that employee with suitable and sufficient information, instruction and training.

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

- (a) details of the substances hazardous to health to which the employee is liable to be exposed including—
 - (i) the names of those substances and the risk which they present to health;
 - (ii) any relevant occupational exposure standard, maximum exposure limit or similar occupational exposure limit;
 - (iii) access to any relevant safety data sheet; and
 - (iv) other legislative provisions which concern the hazardous properties of those substances;
- (b) the significant findings of the risk assessment;
- (c) the appropriate precautions and actions to be taken by the employee in order to safeguard himself and other employees at the workplace;
- (d) the results of any monitoring of exposure in accordance with regulation 10 and, in particular, in the case of a 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;
- (e) the collective results of any health surveillance undertaken in accordance with regulation 11 in a form calculated to prevent those results from being identified as relating to a particular person; and
- (f) where employees are working with a Group 4 biological agent or material that may contain such an agent, the provision of written instructions and, if appropriate, the display of notices which outline the procedures for handling such an agent or material.

(3) The information, instruction and training required by paragraph (1) shall be—

- (a) adapted to take account of significant changes in the type of work carried out or methods of work used by the employer; and
- (b) provided in a manner appropriate to the level, type and duration of exposure identified by the risk assessment.

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

(5) Where containers and pipes for substances hazardous to health used at work are not marked in accordance with any relevant legislation listed in Schedule 7, the employer shall, without prejudice to any derogations provided for in that legislation, ensure that the contents of those containers and pipes, together with the nature of those contents and any associated hazards, are clearly identifiable.

Arrangements to deal with accidents, incidents and emergencies

13.—(1) Subject to paragraph (4) and without prejudice to the relevant provisions of the Management of Health and Safety at Work Regulations (Northern Ireland) 2000(10), in order to protect the health of his employees from an accident, incident or emergency related to the presence of a substance hazardous to health at the workplace, the employer shall ensure that—

- (a) procedures, including the provision of appropriate first-aid facilities and relevant safety drills (which shall be tested at regular intervals), have been prepared which can be put into effect when such an event occurs;
- (b) information on emergency arrangements, including—
 - (i) details of relevant work hazards and hazard identification arrangements; and
 - (ii) specific hazards likely to arise at the time of an accident, incident or emergency, is available; and
- (c) suitable warning and other communication systems are established to enable an appropriate response, including remedial actions and rescue operations, to be made immediately when such an event occurs.

(2) The employer shall ensure that information on the procedures and systems required by paragraph (1)(a) and (c) and the information required by paragraph (1)(b) is—

- (a) made available to relevant accident and emergency services to enable those services, whether internal or external to the workplace, to prepare their own response procedures and precautionary measures; and
- (b) displayed at the workplace, if this is appropriate.

(3) Subject to paragraph (4), in the event of an accident, incident or emergency related to the presence of a substance hazardous to health at the workplace, the employer shall ensure that—

- (a) immediate steps are taken to—
 - (i) mitigate the effects of the event;
 - (ii) restore the situation to normal; and
 - (iii) inform those of his employees who may be affected;
- (b) only those persons who are essential for the carrying out of repairs and other necessary work are permitted in the affected area and they are provided with—
 - (i) appropriate personal protective equipment; and
 - (ii) any necessary specialised safety equipment and plant, which shall be used until the situation is restored to normal; and
- (c) in the case of an incident or accident which has or may have resulted in the release of a biological agent which could cause severe human disease, as soon as practicable thereafter his employees or their representatives are informed of—
 - (i) the causes of that incident or accident; and
 - (ii) the measures taken or to be taken to rectify the situation.

(4) Paragraph (1) and, provided the substance hazardous to health is not a carcinogen or a biological agent, paragraph (3) shall not apply where—

- (a) the results of the risk assessment show that, because of the quantity of each substance hazardous to health present at the workplace, there is only a slight risk to the health of employees; and

(b) the measures taken by the employer to comply with the duty under regulation 7(1) are sufficient to control that risk.

(5) An employee shall report forthwith, to his employer or to any other employee of that employer with specific responsibility for the health and safety of his fellow employees, any accident or incident which has or may have resulted in the release of a biological agent which could cause severe human disease.

Provisions relating to certain fumigations

14.—(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 8 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 fumigation to which this regulation applies unless he has—

(a) notified the persons specified in Part I of Schedule 9 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 fumigant 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

15.—(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 all or any of the requirements or prohibitions imposed by regulations 4 (to the extent permitted by article 9 of Council Directive [98/24/EC](#)), 8, 9, 11(8), (10) and (11) and 14 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 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.

Exemptions relating to the Ministry of Defence, etc.

16.—(1) In this regulation—

(a) “Her Majesty’s Forces” means any of the naval, military or air forces of the Crown, whether raised inside or outside the United Kingdom and whether any such force is a regular, auxiliary or reserve force, and includes any civilian employed by those forces;

- (b) “visiting force” has the same meaning as it does for the purposes of any provision of Part I of the Visiting Forces Act 1952⁽¹¹⁾; and
- (c) “headquarters” means a headquarters for the time being specified in Schedule 2 to the Visiting Forces and International Headquarters (Application of Law) Order 1999⁽¹²⁾.

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

- (a) any of Her Majesty’s Forces;
- (b) any visiting force;
- (c) members of a visiting force working in or attached to a headquarters; 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 risk 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) any visiting force; or
- (b) members of a visiting force working in or attached to a headquarters.

Application within the territorial sea

17. Within the territorial sea these Regulations shall apply only to and in relation to the premises and activities to which any of paragraphs 2 to 6 of Schedule 10 applies.

Revocation and savings

18.—(1) The Control of Substances Hazardous to Health Regulations (Northern Ireland) 2000⁽¹³⁾ are hereby revoked.

(2) Any record or register required to be kept under the Regulations revoked by paragraph (1) shall, notwithstanding that revocation, 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”

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 a Group 2, 3 or 4 biological agent and the meaning of “at work” shall be extended accordingly, and in that connection the references to employer in paragraphs 5 and 6 of Schedule 3 include references to any person carrying out such an activity.

⁽¹¹⁾ 1952 c. 67

⁽¹²⁾ S.I. 1999/1736

⁽¹³⁾ S.R. 2000 No. 120

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.

Defence

21. Subject to regulation 21 of the Management of Health and Safety at Work Regulations (Northern Ireland) 2000⁽¹⁴⁾, 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.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 24th January 2003.

L.S.

Michael J. Bohill
A senior officer of the
Department of Enterprise, Trade and Investment