

Serial Number **1954/128**

## THE NOXIOUS SUBSTANCES REGULATIONS 1954

C. W. M. NORRIE, Governor-General

### ORDER IN COUNCIL

At the Government House at Wellington, this 18th day of August 1954

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Health Act 1920 and the Factories Act 1946, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

### REGULATIONS

#### PART I—PRELIMINARY

1. (1) These regulations may be cited as the Noxious Substances Regulations 1954.

(2) These regulations shall come into force on the 1st day of September 1954.

2. In these regulations, unless the context otherwise requires,—

“Approved” means approved by the medical officer:

“Employer” means any person who employs any other person for the purpose of handling or assisting in the handling of any noxious substance, whether for payment or reward or not; and “employed” has a corresponding meaning:

“Handling”, in relation to a noxious substance, means any process of making, packing, mixing, crushing, preparing, spraying, or otherwise handling the noxious substance in such a way as to contaminate the air in the place where the handling is done:

“Medical officer” means a Medical Officer of Health under the Health Act 1920; and includes any medical practitioner authorized by the Director-General of Health to exercise the powers and perform the duties of a medical officer under these regulations:

“Noxious substance” means any substance specified in the Schedule to these regulations; and includes any substance for the time being declared by the Minister of Health, under regulation 3 hereof, to be a noxious substance for the purposes of these regulations:

“Occupier”, in relation to the handling of a noxious substance in a factory, means an occupier within the meaning of the Factories Act 1946; and, in relation to the handling of a noxious substance otherwise than in a factory, means the person occupying any place used or intended to be used for the handling of the noxious substance, whether any other person is employed therein or not:

“Place” includes any land, whether it is separately enclosed or not, and whether there is any building or other erection thereon or not.

3. (1) The Minister of Health may from time to time, by notice in the *Gazette*, declare any substance, being a substance that in his opinion is likely to cause illness, or irritation to any part of the body, through contact with the skin of any person or is capable of causing ill health to any person when inhaled or swallowed by him, to be a noxious substance for the purposes of these regulations; and may at any time in like manner amend or revoke any such notice.

(2) By any notice under this regulation any such substance as aforesaid may be declared to be a noxious substance for the purposes of Part II or of Part III of these regulations, or in relation to any specified industry, trade, process, or occupation or any class thereof. Except as expressly provided in the notice, any such notice shall apply generally.

#### PART II—HANDLING OF NOXIOUS SUBSTANCES IN FACTORIES

4. (1) This Part of these regulations shall be deemed to be made under the Factories Act 1946.

(2) This Part of these regulations shall apply to the handling of noxious substances in factories.

(3) Nothing in these regulations shall be construed to limit or affect the application of the Factories Act 1946 to the handling of noxious substances in factories.

#### *Instruction and Training*

5. Every employer or occupier shall take all reasonable steps to ensure that every person employed in the handling of any noxious substance, before engaging in such handling, has been instructed in the dangers arising out of such handling and has been thoroughly trained in the precautions to be observed.

#### *Equipment and Protective Clothing*

6. (1) Every employer or occupier who handles or causes to be handled any noxious substance shall provide and maintain in a serviceable condition, for every person so engaged as to be exposed to its effects, including himself, such equipment and clothing as is necessary to give protection from those effects, including an overall, gloves and rubber boots, and a mask or goggles, as the case may require.

(2) All such protective clothing as aforesaid shall be of approved design and made from approved materials.

(3) Every employer or occupier shall provide adequate and suitable accommodation for the keeping of—

(a) All such protective clothing as aforesaid; and

(b) All personal clothing removed during working hours by any person so engaged as aforesaid.

7. (1) No person shall handle any noxious substance unless he is wearing such protective clothing as is necessary to prevent the noxious substance coming into contact with his skin or his personal clothing, and to protect him from the effects of the noxious substance.

(2) No person shall mix or dilute any noxious substance unless he is wearing an overall and gloves, and a mask or goggles, as the case may require. This subclause shall not be construed to limit the generality of subclause (1) of this regulation.

8. (1) Every employer or occupier shall take all reasonable steps to ensure—

(a) That all rubber boots, gloves, goggles, and masks are thoroughly washed immediately after being used in the handling of any noxious substance:

(b) That all overalls used in the handling of any noxious substance are thoroughly washed, where they are used in a factory, not less than once a week, and, where they are used otherwise than in a factory, whenever they have been so used on six days, whether they are successive days or not:

(c) That all machines, tools, and equipment used in such a manner as to be contaminated by any noxious substance are thoroughly washed, or cleaned in some other effective manner, immediately after being so used:

(d) That all machinery and equipment used in connection with any noxious substance is maintained in a safe condition for the purposes of these regulations.

(2) Notwithstanding anything in paragraph (b) of subclause (1) of this regulation, the medical officer may from time to time require that all overalls used in the handling of any noxious substance be thoroughly washed as often as he may direct; and it shall be the duty of the employer or occupier to comply with every such requirement. Any such requirement may be imposed in respect of the handling at any specified place of any specified noxious substance or of noxious substances of any specified class, and different requirements may be imposed in respect of such handling as aforesaid in different circumstances.

#### *Washing*

9. (1) Every employer or occupier shall provide, reasonably near the place of work, adequate washing facilities for every person engaged in handling any noxious substance.

(2) The washing facilities required by this regulation shall include—

(a) One washbasin, or equivalent hand-washing facilities, equipped with hot and cold water, for every five persons or less who are so engaged:

(b) One shower bath, equipped with hot and cold water, for every seven persons or less who are so engaged:

(c) Soap, and either a clean towel weekly for every person so engaged or an adequate supply of paper towels or a hot air dryer.

(3) Notwithstanding anything in this regulation, where the medical officer is satisfied that it is necessary for the washing facilities to be far from any other building, he may by writing under his hand permit the provision of cold water only for the washbasins and shower baths.

10. Every person whose skin becomes contaminated by any noxious substance shall forthwith wash thoroughly every part of his skin that has become so contaminated.

*Smoking, Eating, and Drinking*

11. No person shall smoke while handling any noxious substance.
12. (1) No person shall have, prepare, eat, or drink any food or liquid in any place where there are reasonable grounds for believing that the atmosphere is contaminated by any noxious substance.
  - (2) No person shall eat any food or drink any liquid—
    - (a) In any room or other enclosed place that is used in the handling of any noxious substance; or
    - (b) While wearing any gloves or overalls contaminated by any noxious substance; or
    - (c) After handling any noxious substance, unless he has first washed his hands and forearms.
13. Every employer or occupier shall do all things reasonably necessary to ensure that drinking water is so collected, stored, and maintained that it cannot be contaminated, directly or indirectly, by any noxious substance.

*Storage and Disposal of Noxious Substances*

14. Every person who has any noxious substance in his possession shall store it, while it is not being handled, in such a manner that the container is protected from damage, and shall do all things reasonably necessary to ensure that no unauthorized person has access to it.
15. (1) Every person who empties any container in which any noxious substance was held shall forthwith dispose of the container in one of the following ways:
  - (a) If the container is made of combustible material it shall be burned:
  - (b) If the container is made of glass, metal, or other non-combustible material it shall, if it is returnable, be returned immediately to the supplier; and if it is not returnable it shall be broken, flattened, or otherwise rendered unusable and thereafter disposed of in such a manner as not to endanger any person or animal.
- (2) Every person who uses any noxious substance and thereafter has in his possession any residue thereof that is not required by him shall empty from the container and dispose of such residue as is not so required in such a manner as not to endanger any person or animal, and shall dispose of any empty container in accordance with this regulation.

*Restrictions on Employment*

16. No person shall work, or so employ any other person that that person works, more than ten hours a day in the handling of any noxious substance or noxious substances.
17. (1) Any medical officer may at all reasonable times examine any person employed in handling any noxious substance, for the purpose of determining whether his health is affected thereby.
  - (2) Any medical officer may from time to time require any such person to attend at any reasonable time and place for the purpose of any such examination.
  - (3) No such person as aforesaid shall without reasonable cause fail to attend for examination under this regulation or to comply with any requirement of any notice thereunder.

(4) No person shall, after such period as may be specified in a notice in writing in that behalf given to him by the medical officer, continue to employ in the handling of any noxious substance any person who without reasonable cause fails to attend for examination as aforesaid.

18. (1) If after any such medical examination as aforesaid the medical officer is of opinion that any person employed in handling any noxious substance is absorbing any poison in a quantity sufficient to injure his health, the medical officer may, by notice in writing given to that person and his employer,—

- (a) Require that person not to work more than a specified number of hours a day or more than a specified number of hours a week:
- (b) Require him, if his employer concurs, to work in another part of the place of work:
- (c) Suspend him from working, for such period as in the opinion of the medical officer is necessary in the interests of that person's health.

(2) The medical officer shall, in the same manner, cancel any requirement or suspension under this regulation when he is satisfied that the health of the person so warrants.

(3) No person shall work, or so employ any other person that that other person works, in contravention of a notice given under this regulation.

#### *Appeals*

19. (1) Any person to whom any decision or requirement of a medical officer under these regulations applies, or to whom notice of any such decision or requirement is required by these regulations to be given, and who objects to the decision or requirement, may within fourteen days after receiving notice of the decision or requirement apply to a Magistrate's Court, presided over by a Magistrate, to have his objection heard and determined.

(2) For the purposes of hearing and determining the application, the Court shall have all the powers vested in it in its civil jurisdiction. On hearing the application the Court may make such order as it thinks fit, and every such order shall be final and binding on all parties.

#### *Exemptions*

20. Any medical officer may, by writing under his hand, and upon and subject to such terms and conditions as he thinks fit, exempt any person from compliance with all or any of the provisions of these regulations in any case where in his opinion, by reason of exceptional circumstances or of the infrequency of any process, such compliance is not necessary for the safety or health of persons handling any noxious substance. Any such exemption may in like manner be varied or revoked at any time.

#### *Offences*

21. Every person commits an offence and is liable on summary conviction to a fine not exceeding £25, and in the case of a continuing offence to a further fine not exceeding £5 for every day or part of a day on which the offence has continued, who contravenes or fails to comply in any respect with any provision of these regulations or with any requirement or condition imposed thereunder:

Provided that the total fines for any one offence shall not exceed £50.

PART III—HANDLING OF NOXIOUS SUBSTANCES OTHERWISE THAN IN FACTORIES

22. This Part of these regulations shall be deemed to be made under the Health Act 1920.

23. The provisions of these regulations, except regulation 4, shall apply to the handling of noxious substances otherwise than in factories.

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SCHEDULE

Reg. 2

NOXIOUS SUBSTANCES

1. Dinitro-ortho-cresol (DNC); but not including a substance used as an insecticide and containing not more than 5 per cent of DNC.
2. Dinitro-*o*-sec-butyl-phenol (DNBP); but not including a substance used as an insecticide and containing not more than 5 per cent of DNBP.
3. Para-nitrophenyl-diethyl-thiophosphate (Parathion or E605).
4. Bis-dimethylamino-phosphonous anhydride (Schradan or Pestox).
5. Bis-dimethylamino-fluorophosphine oxide (Dimefox).
6. Bis-isopropylamino-fluorophosphine oxide (Mipafox).
7. Tetraethyl pyrophosphate (TEPP).
8. Hexaethyl tetraphosphate (HETP or Hexone).
9. Any other organo-phosphate compound, and any other dinitro phenolic derivative; but not including a substance used as an insecticide and containing not more than 5 per cent of a dinitro phenolic derivative.

T. J. SHERRARD,  
Clerk of the Executive Council.

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EXPLANATORY NOTE

*[This note is not part of the regulations, but is intended to indicate their general effect.]*

These regulations make provision relating to the safety and health of persons engaged in preparing, packing, mixing, spraying, or otherwise handling the noxious substances specified in the Schedule (which are mainly poisonous organic phosphates and dinitro compounds now used as agricultural insecticides and weed-killers). The Minister of Health is given power to extend the application of the regulations to other substances likely to cause illness through contact or inhalation or swallowing.

The regulations will apply both in factories and elsewhere. They require the instruction of employees in the dangers involved and the precautions to be observed in handling noxious substances. They also require the provision and wearing of protective clothing, the proper cleaning of protective clothing and of machinery and equipment used in the handling of noxious substances, the provision and use of washing facilities, and the proper storage and disposal of noxious substances. They also place restrictions on smoking, eating, and drinking in places where noxious substances are handled. They provide that no person is to work for more than ten hours a day in handling noxious substances. They also provide for medical examinations of employees by medical officers with consequent restrictions on the employment of persons whose health is affected.

There is a right of appeal to a Magistrate against decisions and requirements of a medical officer, and power for a medical officer to grant exemptions from compliance with the regulations in proper circumstances.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 19 August 1954.

These regulations are administered in the Department of Health.