



**THE TOXIC SUBSTANCES REGULATIONS 1983,
AMENDMENT NO. 1**

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 15th day of December 1986

Present:

THE HON. M. K. MOORE PRESIDING IN COUNCIL

PURSUANT to section 82 of the Toxic Substances Act 1979, and, in the case of regulations 15 to 19 of the regulations and the Schedules to the regulations, pursuant to section 7 of that Act, His Excellency the Governor-General, acting on the advice of the Minister of Health tendered on the recommendation of the Toxic Substances Board, and by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. Title and commencement 2. Interpretation 3. Exemptions 4. Containers 5. Fixed bulk containers 6. Labelling 7. Requirements for labels on containers of deadly poisons and dangerous poisons 8. Labels on containers of harmful substances | <ol style="list-style-type: none"> 9. Labels for aerosols and smoke generators 10. Exemption for small containers 11. Labelling of refrigerators 12. Approval of tank vehicles 13. New Part (relating to tobacco) inserted in principal regulations |
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PART VIA

- SPECIAL PROVISIONS RELATING TO TOBACCO
- 46A. Tobacco for chewing or other oral use

- | | |
|---|---|
| <p>14. Labelling of certain paints</p> <p>15. Two new regulations inserted in principal regulations</p> <p style="padding-left: 2em;">49A. Prohibition of importation of polychlorinated biphenyls</p> <p style="padding-left: 2em;">49B. Nitrosamines in babies' teats, etc.</p> <p>16. Offences</p> | <p>17. New deadly poison</p> <p>18. New dangerous poisons</p> <p>19. New standard poisons</p> <p>20. Further amendments to Third Schedule</p> <p>21. New harmful substances</p> <p>22. Fifth Schedule amended Schedules</p> |
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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Toxic Substances Regulations 1983, Amendment No. 1, and shall be read together with and deemed part of the Toxic Substances Regulations 1983* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 14th day after the date of their notification in the *Gazette*.

2. Interpretation—(1) Regulation 2 (1) of the principal regulations is hereby amended by revoking the definition of the term "poison bottle", and substituting the following definition:

" 'Poison bottle' means a container that—

"(a) Is made of glass, plastic, or other like material, and that either—

"(i) Has embossed on at least half of its outer surface narrow flutings, ribs, nettings, or points, or other similar surface impressions readily recognisable by touch; or

"(ii) Has clearly embossed on the shoulder or the side of the container the word 'POISON' in capital letters, the height of the letters being not less than one-fifteenth of the greatest dimension of the container; or

"(b) Is made of aluminium or other metal and that has clearly and permanently marked on the shoulder or side of the container the word 'POISON' in capital letters, the height of the letters being not less than one-fifteenth of the greatest dimension of the container:".

(2) Regulation 2 (1) of the principal regulations is hereby further amended by revoking the definition of the term "Transport Recommendations", and substituting the following definition:

" 'Transport Recommendations' means New Zealand Standard 5433: (Code of practice for the transport of hazardous substances on land):".

3. Exemptions—Regulation 6 (1) (b) of the principal regulations is hereby amended by omitting the expression "regulation 32", and substituting the expression "regulations 28 and 32".

4. Containers—Regulation 15 of the principal regulations is hereby amended by revoking subclause (6), and substituting the following subclause:

"(6) No person shall keep in a poison bottle anything other than a poison, a harmful substance, or a substance specified in any of paragraphs (a) to (d) of subclause (1) of this regulation."

5. Fixed bulk containers—The principal regulations are hereby amended by inserting in Part III, after regulation 17, the following regulation:

“17A. (1) For the purposes of this regulation, the term ‘fixed bulk container’ means a bulk container (including its base and supports, and any valves, piping, or other fittings) affixed permanently or semi-permanently in a position above the ground, otherwise than on a vehicle.

“(2) No person shall use a fixed bulk container for the storage of a substance classified as a toxic substance or a corrosive in the Transport Recommendations unless the container complies with the following requirements:

“(a) It shall be substantially constructed to a specification approved by the Director:

“(b) It shall be constructed or lined with material that is resistant to corrosion or embrittlement by the toxic substance or corrosive:

“(c) It shall be fitted with a vent adequate to prevent increases or decreases of pressure:

“(d) It shall be mounted firmly on substantial supports capable of withstanding appropriate earthquake loadings when the container is full:

“(e) It shall be labelled with—

“(i) The appropriate label specified in Part I, or Part II, or Part III of the Sixth Schedule to these regulations, which label shall conform to the specifications set out in New Zealand Standard 5417 (Transportation Labels for Hazardous Substances); and

“(ii) The name or description of the toxic substance or corrosive in easily legible letters; and

“(iii) The United Nations number:

“(f) It shall be situated in a position that—

“(i) Permits ready visual inspection of the entire outer surface of the container; and

“(ii) Is protected from impact by vehicles or swinging loads:

“(g) It shall be erected on ground or flooring that is impervious to the toxic substance or corrosive in such a way that, if leakage occurs, the entire contents of the container will be safely contained, either by a suitable bund wall enclosure or by dedicated drainage to a collection and holding point:

“(h) It shall be fitted with a suitable overflow pipe discharging either to the area within the bund wall or to the collection and holding point, and constructed so as to prevent any overflow from running over the outer surface of the container or its supports:

“(i) It shall be fitted externally with a level indicator of such a design that the contents of the tank will not leak if the level indicator is damaged.

“(3) Notwithstanding subclause (2) (g) of this regulation, where two or more fixed bulk containers are connected to one another in such a way that a leakage from one will lead to the emptying of each of the others, no person shall use those containers for the storage of a substance classified as a toxic substance or a corrosive in the Transport Recommendations unless, in the event of such a leakage, their entire contents will be safely contained

either by a suitable bund wall enclosure, or by dedicated drainage to a collection and holding point.

“(4) Every person in charge of a fixed bulk container referred to in subclause (2) of this regulation shall maintain it in a state of good repair.

“(5) The Medical Officer of Health may, by notice in writing, exempt any person from any of the requirements of subclause (2) of this regulation, either generally or subject to such conditions as the Medical Officer of Health may specify in the notice.”

6. Labelling—(1) Regulation 21 (1) of the principal regulations is hereby amended by revoking paragraph (b), and substituting the following paragraph:

“(b) In the case of a poison or harmful substance that is not so identified in any such Schedule but that belongs to a class of substances described in any such Schedule, a name in common use permitting the ready identification of that substance as belonging to that class of substances.”

(2) Regulation 21 (2) of the principal regulations is hereby amended by inserting, before the words “Every such label”, the words “Except as provided in subclause (2A) of this regulation,”.

(3) Regulation 21 of the principal regulations is hereby further amended by inserting, after subclause (2), the following subclause:

“(2A) Where the preparation in the container has no significant content other than the poison or harmful substance, the label may bear the expression ‘100 per cent’, instead of the information referred to in subclause (2) of this regulation.”

7. Requirements for labels on containers of deadly poisons and dangerous poisons—Regulation 23 (7) of the principal regulations is hereby amended by omitting the words “being transported and is”.

8. Labels on containers of harmful substances—(1) The principal regulations are hereby amended by revoking regulation 25, and substituting the following regulation:

“25. (1) The principal display panel of every label on any container of a harmful substance shall include the following word and statement in the following order:

‘CAUTION

Keep out of reach of children’.

“(2) Subject to regulations 29 to 31 of these regulations, every label on a container of a harmful substance shall include, in a single panel (where applicable), and in the following order,—

“(a) A warning statement of the hazards of the harmful substance; and

“(b) A statement of the appropriate precautions to be taken in the storage and use of the harmful substance, and in the disposal of the container.

“(3) The statements referred to in subclause (2) of this regulation shall be surrounded together on all 4 sides by a prominent continuous black line in the form of a rectangle, and no other information shall appear within the rectangle.”

(2) Regulation 19 (1) of the principal regulations is hereby amended—

- (a) By inserting, after the expression “24 (2),” the expression “25,”:
- (b) By inserting, after the words “bear the word”, the words “‘CAUTION’ or the word”.
- (3) Regulation 29 of the principal regulations is hereby amended—
 - (a) By omitting from subclause (1) the expression “24”, and substituting the expression “25”:
 - (b) By inserting in that subclause, after the words “a poison”, the words “or harmful substance”:
 - (c) By omitting from paragraph (b) of that subclause the word “poison”, and substituting the word “substance”:
 - (d) By adding to subclause (2) (a) the following:
 - “or (in the case of a harmful substance)

‘CAUTION

Keep out of reach of children.’”.

- (4) Regulation 30 of the principal regulations is hereby amended—
 - (a) By omitting from subclause (1) the expression “24”, and substituting the expression “25”:
 - (b) By inserting in that subclause, after the words “a poison”, the words “or harmful substance”:
 - (c) By omitting from paragraph (b) of that subclause the word “poison”, and substituting the word “substance”:
 - (d) By adding to subclause (2) (a) the following:
 - “or (in the case of a harmful substance)

‘CAUTION

Keep out of reach of children.’”.

- (5) Regulation 31 (1) of the principal regulations is hereby amended by omitting the expression “24”, and substituting the expression “25”.

9. Labels for aerosols and smoke generators—(1) Regulation 28 of the principal regulations is hereby amended by inserting, after subclause (1), the following subclause:

“(1A) Every label on an aerosol spray container shall contain the name of the propellant used to expel the contents of the container.”

(2) Regulation 28 (2) of the principal regulations is hereby amended by omitting the words “In subclause (1)”, and substituting the words “For the purposes”.

10. Exemption for small containers—The principal regulations are hereby amended by inserting, after regulation 28, the following regulation:

“28A. (1) It shall not be necessary to comply with the requirements of regulations 19, 20, and 22 to 25 of these regulations in respect of any label on a container of a poison or harmful substance if—

“(a) It is impracticable to comply with those requirements because the container is too small; and

“(b) All the matters required by those regulations are printed on a separate information sheet supplied with the substance; and

“(c) The label complies with subclause (2) of this regulation.

“(2) For the purposes of subclause (1) of this regulation, a label shall include—

“(a) The following words and statement in the following order:

‘DEADLY POISON

Keep out of reach of children.’

or (as the case may require)

‘DANGEROUS POISON

Keep out of reach of children.’

or (as the case may require)

‘POISON

Keep out of reach of children.’

or (in the case of a harmful substance)

‘CAUTION

Keep out of reach of children;’ and

“(b) The following statement:

‘Read accompanying instructions before use.’ ”

11. Labelling of refrigerators—The principal regulations are hereby amended by inserting, after regulation 32, the following regulation:

“32A. Every refrigerator that is manufactured in or imported into New Zealand on or after the 1st day of April 1987 shall be clearly labelled with a statement of the common or chemical name of the refrigerant that it contains.”

12. Approval of tank vehicles—The principal regulations are hereby amended by inserting, after regulation 35, the following regulation:

“35A. (1) No person shall use any tank wagon or tank trailer for the road transport of any substance that is classified as a toxic substance or a corrosive in the Transport Recommendations unless the wagon or trailer is constructed to a specification approved by the Director.

“(2) Notwithstanding the requirements of subclause (1) of this regulation, any tank wagon or tank trailer that is, at the time of coming into force of this regulation, used for the road transport of toxic substances or corrosives may continue to be used for that purpose if, on being satisfied that it is in a state of good repair and of a construction that is safe and adequate for such a purpose, the Director approves that continued use.

“(3) Any approval issued under subclause (1) or subclause (2) of this regulation may be revoked by the Director if the Director considers that the tank wagon or tank trailer has not been maintained in a state of good repair or has been modified in such a way that, if such modification had been part of the original specification or vehicle requiring approval, the approval would not have been granted.”

13. New Part (relating to tobacco) inserted in principal regulations—The principal regulations are hereby amended by inserting, after Part VI, the following Part:

“PART VIA

“SPECIAL PROVISIONS RELATING TO TOBACCO

“46A. **Tobacco for chewing or other oral use**—(1) No advertisement for a tobacco product shall directly or indirectly state or suggest that the product is suitable for chewing or for any other oral use.

“(2) No person shall import for sale, sell, pack, or distribute any tobacco product labelled or otherwise described as suitable for chewing or for any other oral use.”

14. Labelling of certain paints—The principal regulations are hereby amended by inserting, after regulation 48, the following regulation:

“48A. No person shall pack, store, or sell any two-pack polyurethane paint or any moisture-cured polyurethane paint unless the label on the container of the paint includes the following statement:

‘CONTAINS ISOCYANATES

When sprayed, this product may be harmful by inhalation.

Do not breathe vapour or spray.

Avoid contact with skin and eyes.

Wear suitable protective clothing, gloves, and eye and face protection, including suitable breathing protection such as an air-supplied respirator or hood.’ ”

15. Two new regulations inserted in principal regulations—The principal regulations are hereby amended by inserting, after regulation 49, the following regulations:

“49A. **Prohibition of importation of polychlorinated biphenyls**—(1) Except as may be permitted in writing by the Director, no person shall import into New Zealand any polychlorinated biphenyl (PCB) or any equipment containing any polychlorinated biphenyl.

“(2) For the purposes of subclause (1) of this regulation, the term ‘polychlorinated biphenyl’ means the molecule biphenyl with at least two chlorine atoms attached to one of the phenyl rings.

“49B. **Nitrosamines in babies’ teats, etc.**—No person shall import or sell any babies’ teat, babies’ soother, or babies’ pacifier, or any breast shield, that is made of rubber containing—

“(a) Ten or more micrograms per kilogram of any particular nitrosamine compound; or

“(b) Thirty or more micrograms per kilogram in the aggregate of 2 or more nitrosamine compounds.”

16. Offences—Regulation 54 (1) of the principal regulations is hereby amended by omitting the expression “33, 34, 38 (1), 39, 40, 41 (1), 47, 48”, and substituting the expression “17A, 32A, 33, 34, 35A, 38 (1), 39, 40, 41 (1), 46A (2), 47, 48, 48A, 49A, 49B.”

17. New deadly poison—(1) The substance named in the First Schedule to these regulations is hereby declared to be a deadly poison.

(2) The First Schedule to the principal regulations is hereby amended by adding the name of the substance declared to be a deadly poison by subclause (1) of this regulation.

18. New dangerous poisons—(1) The substances named in the Second Schedule to these regulations are hereby declared to be dangerous poisons.

(2) The Second Schedule to the principal regulations is hereby amended by inserting, in their appropriate alphabetical order, the names of the substances declared to be dangerous poisons by subclause (1) of this regulation.

19. New standard poisons—(1) The substances named in the Third Schedule to these regulations are hereby declared to be standard poisons.

(2) The Third Schedule to the principal regulations is hereby amended by inserting, in their appropriate alphabetical order, the names of the substances declared to be standard poisons by subclause (1) of this regulation.

20. Further amendments to Third Schedule—(1) The Third Schedule to the principal regulations is hereby amended by omitting the item that begins with the word “Fluorides”, and substituting the following item:

“FLUORIDES, including silicofluorides, except substances containing fluorides in proportion equivalent to 0.1 percent or less of elemental fluorine; and except hydrofluoric acid.”

(2) The Third Schedule to the principal regulations is hereby further amended by omitting the item that begins with the word “Iodine”, and substituting the following item:

“IODINE, in preparations containing more than 2.6 percent of iodine.”

21. New harmful substances—(1) The substances named in the Fourth Schedule to these regulations are hereby declared to be harmful substances.

(2) The Fourth Schedule to the principal regulations is hereby amended by inserting, in their appropriate alphabetical order, the names of the substances declared to be harmful substances by subclause (1) of this regulation.

22. Fifth Schedule amended—The Fifth Schedule to the principal regulations is hereby amended by revoking the item “Thinners in containers of a capacity of 4 litres or more”.

SCHEDULES

Reg. 17 (1)

FIRST SCHEDULE

NEW DEADLY POISON

TERBUFOS, in liquid preparations containing terbufos; and in solid preparations containing 10 percent or more of terbufos.

SECOND SCHEDULE

Reg. 18 (1)

NEW DANGEROUS POISONS

- CROTOXYPHOS, in liquid preparations containing 20 percent or more of crotoxyphos.
- DIGITALIS, glycosides of; except in preparations containing less than 1 unit of activity (as defined in the British Pharmacopoeia) in 2 grams of the preparation.
- FENTHION ETHYL, in liquid preparations containing 25 percent or more of fenthion ethyl.
- FLUCYTHRINATE, in liquid preparations containing 10 percent or more of flucythrinate.
- NARASIN, in liquid preparations containing 8 percent or more of narasin; and in solid preparations containing 30 percent or more of narasin.
- PROPETAMPHOS, in liquid preparations containing 30 percent or more of propetamphos.
- TERBUFOS, in solid preparations containing less than 10 percent of terbufos.

THIRD SCHEDULE

Reg. 19 (1)

NEW STANDARD POISONS

- ACONITE; alkaloids of; and their salts.
- BELLADONNA; alkaloids of; and their salts.
- CROTOXYPHOS, in liquid preparations containing less than 20 percent, but not less than 2 percent, of crotoxyphos; and in solid preparations containing 10 percent or more of crotoxyphos.
- DIGITALIS; glycosides of; in preparations containing less than 1 unit of activity (as defined in the British Pharmacopoeia) in 2 grams of the preparation.
- FENTHION ETHYL, in liquid preparations containing less than 25 percent of fenthion ethyl; and in solid preparations containing 10 percent or more of fenthion ethyl.
- FLUCYTHRINATE, in liquid preparations containing less than 10 percent of flucythrinate; and in solid preparations containing 15 percent or more of flucythrinate.
- IMAZALIL; and its salts; in liquid preparations containing 15 percent or more of imazalil or its salts; and in solid preparations containing 65 percent or more of imazalil or its salts.
- NARASIN, in liquid preparations containing less than 8 percent of narasin; and in solid preparations containing less than 30 percent but not less than 3 percent of narasin.
- PHOXIM, in liquid preparations containing 10 percent or more of phoxim; and in solid preparations containing 50 percent or more of phoxim.
- PROPETAMPHOS, in liquid preparations containing less than 30 percent of propetamphos; and in solid preparations containing 12 percent or more of propetamphos.

described in any such Schedule, the present requirement is the inclusion on the label of a statement to the effect that the poison or harmful substance is of that class as described in that Schedule. Subclause (1) of regulation 6 requires the inclusion of a name in common use permitting the ready identification of that substance as belonging to that class of substances.

Regulation 21 (2) of the principal regulations presently requires every such label to state the approximate proportion of the poison or harmful substance in the preparation in the container. Subclause (3) of regulation 6 provides for the case where the preparation contains nothing else but the poison or harmful substance.

Regulation 7 amends regulation 23 (7) of the principal regulations, which provides an exemption from the requirement for containers of deadly poisons and dangerous poisons packed or kept for sale to bear the symbol specified in Part I of the Sixth Schedule to the principal regulations. The exemption applies to any such container that is being transported and is labelled in accordance with regulation 26 of the principal regulations. This exemption is widened to include all such containers that meet the requirements of regulation 26, whether or not they are being transported.

Regulation 8 substitutes a new regulation 25 relating to the labelling of containers of harmful substances. The words "Harmful Substance" need no longer appear on the label, but the requirements of subclause (2) are new.

Regulation 9 requires every aerosol container to be labelled with the name of the propellant used to expel its contents.

Regulation 10 inserts a new *regulation 28A*, which provides for certain exemptions, in respect of containers of poison, from the full rigours of the labelling requirements of the principal regulations where strict compliance is impracticable.

Regulation 11 requires every refrigerator manufactured in or imported into New Zealand on or after the date of these regulations to be labelled with the name of the refrigerant that it contains.

Regulation 12 requires every tank wagon or tank trailer used for the road transport of certain toxic substances (including corrosives) to be constructed to a specification approved by the Director of the Division of Public Health in the Department of Health.

Regulation 13 prohibits the advertising, importing, selling, and distributing of any tobacco product described as suitable for chewing or for any other oral use.

Regulation 14 prescribes a warning statement to be included in labels on any two-pack polyurethane paint or any moisture cured polyurethane paint.

Regulation 15 inserts in the principal regulations 2 new regulations. *Regulation 49A* prohibits the importation into New Zealand of any polychlorinated biphenyl, or any equipment containing any polychlorinated biphenyl, without the written permission of the Director. *Regulation 49B* prescribes maximum levels of nitrosamine concentrations in babies' teats, babies' soothers, babies' pacifiers, and breast shields.

Regulation 16 is of a consequential nature only.

Regulations 17 to 22 make changes to the Schedules to the principal regulations relating to the classification of toxic substances as deadly poisons, dangerous poisons, standard poisons, and harmful substances.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 18 December 1986.

These regulations are administered in the Department of Health.