



**THE TOXIC SUBSTANCES REGULATIONS 1983,
AMENDMENT NO. 2**

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 21st day of March 1988

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to sections 72, 73, and 82 of the Toxic Substances Act 1979, 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

- 1. Title and commencement
- 2. Advertisements for harmful substances
- 3. New Part VIA (relating to tobacco products) substituted in principal regs

PART VIA

SPECIAL PROVISIONS RELATING TO
TOBACCO PRODUCTS

46A. Interpretation

46B. Tobacco product not to be advertised or labelled as suitable for chewing, etc.

46C. Prohibition of sales of tobacco products to persons under 16

- 4. Offences
- 5. Fourth Schedule amended
- 6. Revocation Schedule

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Toxic Substances Regulations 1983, Amendment No. 2, and shall be

read together with and deemed part of the Toxic Substances Regulations 1983* (hereinafter referred to as the principal regulations).

(2) Regulations 3 and 4 of these regulations so far as they relate to subclauses (3) and (4) of regulation 46C of the principal regulations (as substituted by regulation 3), shall come into force on the 1st day of April 1989.

(3) Except as provided in subclause (2) of this regulation, these regulations shall come into force on the 1st day of April 1988.

2. Advertisements for harmful substances—Regulation 12 of the principal regulations is hereby amended by revoking subclause (1), and substituting the following subclause:

“(1) Every advertisement for a harmful substance shall include, conspicuously printed, the following statement:

“Caution: Keep out of reach of children.”

3. New Part VIA (relating to tobacco products) substituted in principal regulations—The principal regulations are hereby amended by revoking Part VIA (as inserted by regulation 13 of the Toxic Substances Regulations 1983, Amendment No. 1), and substituting the following Part:

“PART VIA

“SPECIAL PROVISIONS RELATING TO TOBACCO PRODUCTS

“46A. **Interpretation**—In this Part of these regulations, unless the context otherwise requires,—

“‘Cigar’ includes cheroot:

“‘Cigarette’ includes cigarillo:

“‘Loose tobacco’ means pipe tobacco or tobacco prepared for smoking in hand-rolled cigarettes:

“‘Tobacco product’ means any cigar, cigarette, or loose tobacco.

“46B. **Tobacco product not to be advertised or labelled as suitable for chewing, etc.**—(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.

“46C. **Prohibition of sales of tobacco products to persons under 16**—(1) No person shall sell any tobacco product to a person who has not attained the age of 16 years.

(2) It shall be a defence to a charge under subclause (1) of this regulation to prove that the person who sold the tobacco product—

(a) Believed on reasonable grounds that the person to whom it was sold was of or over the age of 16 years; or

(b) Received from the person to whom the tobacco product was sold evidence purporting to show that that person was of or over the age of 16 years, and that it was reasonable to, and he or she did, accept that evidence as correct.

“(3) Subject to subclause (4) of this regulation, no person shall permit any tobacco product to be sold by way of an automatic vending machine from any place to which a person who has not attained the age of 16 years may lawfully have access.

“(4) Subclause (3) of this regulation shall not apply to—

“(a) Any premises in respect of which a club charter is in force under the Sale of Liquor Act 1962; or

“(b) Any premises in respect of which a hotel premises licence or a tavern premises licence or a tourist-house premises licence is in force under that Act; or

“(c) Any canteen, cafeteria, or similar facility provided by an employer for the provision of refreshments to his or her employees during working hours.

“(5) Every person who sells by retail any tobacco product shall display clearly for the public a notice to the effect that the sale of any tobacco product to persons who have not attained the age of 16 years is prohibited.”

4. Offences—Regulations 54(1) of the principal regulations (as amended by regulation 16 of the Toxic Substances Regulations 1983, Amendment No. 1), is hereby amended by omitting the expression “46A(2)”, and substituting the expression “46B(2), 46C(1), 46C(3), 46C(5)”,.

5. Fourth Schedule amended—(1) The Fourth Schedule to the principal regulations is hereby amended by adding to the item relating to boric acid the following paragraph:

“(d) Industrial uses.”

(2) The Fourth Schedule to the principal regulations is hereby further amended by omitting the item relating to propanol.

6. Revocation—Regulation 13 of the Toxic Substances Regulations 1983, Amendment No. 1 is hereby consequentially revoked.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

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

These regulations do 3 things:

- (a) They prohibit the sale of tobacco products to minors under the age of 16 years:
- (b) They change the terms of the warning statement required in advertisements of harmful substances:
- (c) They remove from the list of harmful substances in the Fourth Schedule to the principal regulations boric acid and its salts when used for industrial purposes, and propanol.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 24 March 1988.

These regulations are administered in the Department of Health.