

Reprint
as at 4 April 2016



Noxious Substances Regulations 1954 (SR 1954/128)

Noxious Substances Regulations 1954: revoked, on 4 April 2016, by section 231(3)(c) of the Health and Safety at Work Act 2015 (2015 No 70).

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.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Health.

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Regulations

Part 1 Preliminary

1

- (1) These regulations may be cited as the Noxious Substances Regulations 1954.
- (2) These regulations shall come into force on 1 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 1956; 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; and includes any substance for the time being declared by the Minister of Health, under regulation 3, 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 and Commercial Premises Act 1981; 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.

Regulation 2 **medical officer**: amended, on 1 January 1957, pursuant to section 140(1) of the Health Act 1956 (1956 No 65).

Regulation 2 **occupier**: amended, on 1 February 1982, pursuant to section 74 of the Factories and Commercial Premises Act 1981 (1981 No 25).

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 2 or of Part 3, 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 2**Handling of noxious substances in factories****4**

- (1) This Part shall be deemed to be made under the Factories Act 1946.
- (2) This Part 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 and Commercial Premises Act 1981 to the handling of noxious substances in factories.

Regulation 4(3): amended, on 1 February 1982, pursuant to section 74 of the Factories and Commercial Premises Act 1981 (1981 No 25).

*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).

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 6 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), 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) 1 washbasin, or equivalent hand-washing facilities, equipped with hot and cold water, for every 5 persons or less who are so engaged:
 - (b) 1 shower bath, equipped with hot and cold water, for every 7 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 10 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 14 days after receiving notice of the decision or requirement apply to a District Court, presided over by a District Court Judge, 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.

Regulation 19(1): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

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 Offences

Every person commits an offence against these regulations, and shall be liable on conviction to the penalties provided in that behalf in section 62(1)(b) of the Factories and Commercial Premises Act 1981, who contravenes or fails to comply in any respect with any provision contained in this Part or with any condition or requirement imposed under any such provision.

Regulation 21: replaced, on 1 February 1982, by regulation 2 of the Noxious Substances Regulations 1954, Amendment No 1 (SR 1981/366).

Regulation 21: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Part 3

Handling of noxious substances otherwise than in factories

22

This Part 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.

Schedule

Noxious substances

r 2

- 1 Dinitro-ortho-cresol (DNC); but not including a substance used as an insecticide and containing not more than 5% of DNC.
- 2 Dinitro-o-sec-butyl-phenol (DNBP); but not including a substance used as an insecticide and containing not more than 5% 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% of a dinitro phenolic derivative.

T J Sherrard,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification of regulations in *Gazette*: 19 August 1954.

Reprints notes

1 *General*

This is a reprint of the Noxious Substances Regulations 1954 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Health and Safety at Work Act 2015 (2015 No 70): section 231(3)(c)

Criminal Procedure Act 2011 (2011 No 81): section 413

Noxious Substances Regulations 1954, Amendment No 1 (SR 1981/366)

Factories and Commercial Premises Act 1981 (1981 No 25): section 74

District Courts Amendment Act 1979 (1979 No 125): section 18(2)

Health Act 1956 (1956 No 65): section 140(1)