



New South Wales

Occupational Health and Safety (Hazardous Substances) Amendment (Carcinogenic Substances) Regulation 1997

under the

Occupational Health and Safety Act 1983

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Occupational Health and Safety Act 1983*.

JEFFREY SHAW, Q.C., M.L.C.,
Minister for Industrial Relations

Explanatory note

The objects of this Regulation are:

- (a) to repeal the *Occupational Health and Safety (Carcinogenic Substances) (Transitional) Regulation 1994*, and
- (b) to incorporate the provisions of that Regulation in the *Occupational Health and Safety (Hazardous Substances) Regulation 1996*, with no substantive changes.

The provisions deal with the use, supply and storage of carcinogenic substances at places of work, and with the issuing of purchaser's permits to persons who use carcinogenic substances at places of work.

This Regulation is made under the *Occupational Health and Safety Act 1983*, including section 45 (the general regulation making power).

This Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

1997 No 409

Clause 1 Occupational Health and Safety (Hazardous Substances) Amendment (Carcinogenic Substances) Regulation 1997

Occupational Health and Safety (Hazardous Substances) Amendment (Carcinogenic Substances) Regulation 1997

1 Name of Regulation

This Regulation is the *Occupational Health and Safety (Hazardous Substances) Amendment (Carcinogenic Substances) Regulation 1997*.

2 Commencement

This Regulation commences on 1 September 1997.

3 Repeal

The *Occupational Health and Safety (Carcinogenic Substances) (Transitional) Regulation 1994* is repealed.

4 Amendment

The *Occupational Health and Safety (Hazardous Substances) Regulation 1996* is amended as set out in Schedule 1.

5 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 4)

[1] Clause 3 Object

Insert “, in particular” after “places of work” where firstly occurring.

[2] Clause 34 Transitional arrangements

Insert before clause 34 (1):

- (1A) This clause does not apply in relation to the provisions of Part 5.

[3] Part 5

Insert after Part 4:

Part 5 Carcinogenic substances

36 Definitions

In this Part:

carcinogenic substance means a substance specified in Schedule 3, but does not include any derivative of such a substance.

purchaser's permit means a permit in force under this Part.

37 Offences in relation to carcinogenic substances

- (1) A person must not:
- (a) use a carcinogenic substance at a place of work, or
 - (b) supply a carcinogenic substance to any other person for use at a place of work,

unless the person by whom the substance is to be used, or to whom the substance is to be supplied, is the holder of a purchaser's permit for that substance.

1997 No 409

Occupational Health and Safety (Hazardous Substances) Amendment (Carcinogenic Substances) Regulation 1997

Schedule 1 Amendments

- (2) A person must not keep or store a carcinogenic substance at a place of work unless:
- (a) the person is the holder of a purchaser's permit for that substance, or
 - (b) the person has given written notice to WorkCover of
 - (i) the person's name and the address of the person's place of business, and
 - (ii) the name of the substance and the quantity of the substance proposed to be kept or stored, and
 - (iii) the manner and form in which the person proposes to dispose of the substance.
- (3) The holder of a purchaser's permit must comply with any conditions to which the permit is subject.

Maximum penalty (subclauses (1)–(3)): 10 penalty units.

38 Applications for purchasers' permits

- (1) An application for a purchaser's permit:
- (a) must be in writing, and
 - (b) must specify the name of the applicant and the address of the applicant's place of business, and
 - (c) must contain the particulars referred to in subclause (2) in relation to the substance for which the permit is sought, and
 - (d) must contain:
 - (i) a statement to the effect that it is not practicable for the applicant to use any other substance for the purpose for which the person intends to use the substance for which the permit is sought, and
 - (ii) information in support of that statement, and
 - (e) must be made to Workcover.

-
- (2) The particulars referred to in subclause (1) (c) are as follows:
- (a) the name of the substance and the quantity of the substance that the applicant intends to use,
 - (b) the name of the person from whom the applicant intends to obtain the substance and the address of that person's place of business,
 - (c) the purpose for which the applicant intends to use the substance,
 - (d) the form in which the applicant intends to obtain the substance,
 - (e) the manner and form in which the applicant intends to use the substance,
 - (f) the manner and form in which the applicant intends to dispose of the substance.
- (3) Before determining an application for a purchaser's permit, Workcover may require the applicant to furnish further information in support of the application.

39 Determination of applications

Workcover is to determine an application for a purchaser's permit:

- (a) by issuing a purchaser's permit in accordance with the application, either unconditionally or subject to conditions, or
- (b) by refusing the application.

40 Suspension and cancellation of authorities

Workcover may, at any time and for any reason, suspend or cancel a purchaser's permit.

41 Savings provisions

- (1) In this clause:

previous Regulation means the *Occupational Health and Safety (Carcinogenic Substances) (Transitional) Regulation 1994*.

1997 No 409

Occupational Health and Safety (Hazardous Substances) Amendment (Carcinogenic Substances) Regulation 1997

Schedule 1 Amendments

- (2) A purchaser's permit that was in force immediately before 1 September 1997 under the previous Regulation is taken to be a purchaser's permit in force under this Part.
- (3) A written notice given to Workcover in accordance with the previous Regulation is taken to be a written notice given to Workcover in accordance with this Part.
- (4) The suspension of a written authority that was in force immediately before 1 September 1997 under the previous Regulation is taken to be a suspension in force under this Part.

[4] Schedule 3

Insert after Schedule 2:

Schedule 3 Carcinogenic substances

(Clause 36)

2-acetylaminofluorene

acrylonitrile

aflatoxins except in foods where specifically permitted under the *Food Act 1989*

alphanaphthylamine

4-aminobiphenyl

asbestos when included in Schedule 7 of the Poisons List (being the list proclaimed under section 8 of the *Poisons and Therapeutic Goods Act 1966*)

azathioprine except in preparations for therapeutic use

benzidine

benzo(a)pyrene

betanaphthylamine

betapropiolactone

N, N-bis (2-chloroethyl)-2-naphthylamine

bis chloromethyl ether

busulphan except in preparations for therapeutic use

chlorambucil except in preparations for therapeutic use

cyclophosphamide except in preparations for therapeutic use

3, 3'-dichlorobenzidine

diethyl sulphate

dimethyl sulphate

4-dimethylaminoazobenzene

melphalan except in preparations for therapeutic use

methoxsalen except in preparations for therapeutic use

methyl chloromethyl ether

4, 4'-methylene bis-(2-chloroaniline)

mustine except in preparations for therapeutic use

4-nitrobiphenyl

N-nitrosodimethylamine

oxymetholone except in preparations for therapeutic use

phenacetin when included in Schedule 7 of the Poisons List

procarbazine except in preparations for therapeutic use

stilboestrol except in preparations for therapeutic use

thiotepa except in preparations for therapeutic use

o-toluidine

treosulphan when included in Schedule 7 of the Poisons List

vinyl chloride monomer