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# Occupational Health and Safety (Commonwealth Employment) (National Standards) Amendment Regulations 1999 (No. 1)

Statutory Rules 1999 No. 1

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I, MAJOR GENERAL MICHAEL JEFFERY, AC, MC,  
Administrator of the Commonwealth of Australia, acting with  
the advice of the Federal Executive Council, make the following  
regulations under the *Occupational Health and Safety  
(Commonwealth Employment) Act 1991*.

Dated 30 April. 1999.

*P. M. Jeffery*  
Administrator

By His Excellency's Command,

PETER REITH  
Minister for Employment, Workplace Relations  
and Small Business



# Occupational Health and Safety (Commonwealth Employment) (National Standards) Amendment Regulations 1999 (No. 2)<sup>1</sup>

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Statutory Rules 1999 No. 2<sup>2</sup>

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made under the

*Occupational Health and Safety (Commonwealth  
Employment) Act 1991*

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| <i>Occupational Health and Safety (Commonwealth<br/>Employment) (National Standards) Amendment<br/>Regulations 1999 (No. 2)</i> | <i>1</i> |

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1

**1 Name of regulations**

These regulations are the *Occupational Health and Safety (Commonwealth Employment) (National Standards) Amendment Regulations 1999 (No. 1)*.

**2 Commencement**

These regulations commence on gazettal.

**3 Amendment of Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations**

Schedule 1 amends the Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations.

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|   |   |         |    |
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## Schedule 1      Amendments

(regulation 3)

**[1]      Regulation 1.01**

*substitute*

**1.01      Name of regulations**

These regulations are the *Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994*.

**[2]      Part 6, Division 1, heading**

*omit*

**[3]      Part 6, Division 1, Subdivision A, heading**

*substitute*

**Division 1      Introduction**

**[4]      Regulation 6.01, heading**

*substitute*

**6.01      Objects of Part**

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Employment) (National Standards) Amendment  
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**[5] Regulation 6.01**

*omit*

this Division

*insert*

this Part

**[6]**

*Note* The boxed Notes after regulation 6.01 should be altered by inserting the following sentence after the second sentence:

The following codes of practice are relevant to the provisions in this Part for scheduled carcinogenic substances and inorganic lead:

- (a) the *Approved Code of Practice on the Control and Safe Use of Inorganic Lead in Commonwealth Employment*, approved by the Minister on 3 March 1999;
- (b) the *Approved Code of Practice on the Control of Scheduled Carcinogenic Substances in Commonwealth Employment*, approved by the Minister on 3 March 1999.

**[7] Regulation 6.02, heading**

*substitute*

**6.02 Application of Part**

**[8] Subregulation 6.02 (1)**

*omit*

this Division

*insert*

this Part

---

**[9] Subregulation 6.02 (2)**

*omit*

This Division

*insert*

This Part

**[10] Paragraph 6.02 (2) (a)**

*omit*

applies

**[11] Subregulations 6.02 (3) and (4)**

*omit*

This Division

*insert*

This Part

**[12] Regulation 6.03, heading**

*substitute*

**6.03 Definitions for Part**

**[13] Regulation 6.03**

*omit*

this Division,

*insert*

this Part,

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[14] **Regulation 6.03, definition of *hazardous substance*, paragraph (b)**

*omit*

the “Approved Criteria for Classifying Hazardous Substances [NOHSC:1008 (1994)]”;

*insert*

the *Approved Criteria for Classifying Hazardous Substances [NOHSC:1008 (1994)]*; or

[15] **Regulation 6.03, definition of *hazardous substance*, after paragraph (b)**

*insert*

(c) that is a scheduled carcinogenic substance.

[16] **Regulation 6.03**

*insert*

***blood-lead level*** means the concentration of lead in whole blood expressed in micromoles per litre ( $\mu\text{mol} / \text{L}$ ) or micrograms per decilitre ( $\mu\text{g} / \text{dL}$ ).

***bona fide research*** means a systematic, investigative or experimental activity conducted for the purpose of:

- (a) acquiring new knowledge; or
- (b) creating new or improved materials, products, devices, processes or services; or
- (c) analysis to identify the kind or quantities of ingredients in a substance.

***inorganic lead substance*** means:

- (a) lead metal; or
- (b) an inorganic lead compound; or
- (c) a lead salt of an organic acid.

*lead-risk job* means a work activity or sequence of work activities in which the blood-lead level of an employee might reasonably be expected to rise, or does rise, above the lower of the following blood lead levels:

- (a) 1.45  $\mu\text{mol} / \text{L}$  (30  $\mu\text{g} / \text{dL}$ );
- (b) the removal level prescribed in relation to the employee.

*removal level* has the same meaning as in the *Approved Code of Practice on the Control and Safe Use of Inorganic Lead in Commonwealth Employment*, as approved by the Minister on 3 March 1999 and as in force on 7 May 1999.

*scheduled carcinogenic substance* means a substance mentioned in column 2 of Schedule 1A.

**[17] Part 6, Division 1, Subdivision B, heading**

*substitute*

**Division 2 Duties of a manufacturer, and a supplier, of a hazardous substance for the Commonwealth**

**[18] Paragraph 6.06 (2) (a)**

*substitute*

- (a) the supplier supplies the hazardous substance to an employer that is a retailer, or a retail warehouse operator, in a consumer package that holds:
  - (i) less than 30 kilograms of the substance; or
  - (ii) less than 30 litres of the substance; and



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**[19] Part 6, Division 1, Subdivision C, heading**

*substitute*

**Division 3 Duties of an employer in  
relation to the use of hazardous  
substances**

**[20]**

*Note* The boxed Notes after the heading to Subdivision C should be altered by:

- (a) omitting 'this Division.' and inserting 'this Part.'; and
- (b) omitting 'Subdivision.' (twice occurring) and inserting 'Division.'.

**[21] Regulation 6.16**

*omit all the words after*

Schedule 1

*insert*

is not handled at work in any circumstance other than a circumstance specified in column 3 of the item.

**[22] After regulation 6.16**

*insert*

**6.16A Exemption from regulation 6.16**

- (1) Regulation 6.16 does not apply to an employer in relation to a hazardous substance mentioned in Part 2 of Schedule 1 if the Commission exempts the employer from the application of the regulation in relation to the substance.

- 
- (2) The Commission may only exempt an employer in accordance with this regulation and regulations 6.16B and 6.16C.
  - (3) An employer seeking an exemption must:
    - (a) apply to the Commission in writing, using the application form (if any) approved by the Commission; and
    - (b) include with the application evidence that:
      - (i) the use of the hazardous substance is essential to the operation of the employer's business; and
      - (ii) there is no reasonable alternative substance for the hazardous substance.
  - (4) On receipt of an application, the Commission may, in writing:
    - (a) grant the employer the exemption; or
    - (b) refuse to grant the exemption; or
    - (c) ask the employer to give it further information about the application.
  - (5) Before granting an employer an exemption, the Commission must be satisfied that:
    - (a) the use of the hazardous substance is essential to the operation of the employer's business; and
    - (b) there is no reasonable alternative substance for the hazardous substance; and
    - (c) there are no circumstances suggesting that granting the exemption would be inconsistent with the objects of this Part.
  - (6) If the Commission refuses to grant an exemption, it must give the employer a written notice setting out the reasons for the refusal.

**6.16B Conditions of an exemption**

- (1) An exemption granted under regulation 6.16A may be subject to conditions that promote the objects of this Part.
- (2) The Commission may, by notice in writing to the holder of an exemption:
  - (a) add a condition to the exemption, or vary a condition; or
  - (b) revoke a condition.

**6.16C Operation of an exemption**

- (1) An exemption granted under regulation 6.16A commences on:
  - (a) the day on which it is granted; or
  - (b) a later date stated in the exemption.
- (2) The Commission must cancel an exemption if:
  - (a) it is satisfied that continuing the exemption would be inconsistent with the objects of this Part; or
  - (b) the employer that holds the exemption asks the Commission to cancel it.
- (3) The Commission is not required to consult the employer that holds the exemption before cancelling it.
- (4) If the Commission cancels an exemption under paragraph (2) (a), it must give the employer a written notice setting out:
  - (a) the reasons for cancelling it; and
  - (b) the time from which it is cancelled.
- (5) An exemption ceases on the earlier of:
  - (a) the end of the day (if any) stated in the exemption as the day when it ceases; and
  - (b) the time when it is cancelled.

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**6.16D Review of decision**

Application may be made to the Administrative Appeals Tribunal for review of a decision of the Commission under paragraph 6.16A (4) (b) or 6.16C (2) (a), or subregulation 6.16B (2).

**[23] After paragraph 6.17 (2) (a)**

*insert*

- (aa) if a job involves the use of an inorganic lead substance — a determination of whether the job is a lead-risk job; and

**[24] Paragraph 6.17 (5) (c)**

*omit*

this Division.

*insert*

this Part.

**[25] After regulation 6.17**

*insert*

**6.17A Exposure to scheduled carcinogenic substances**

- (1) Subregulation (2) applies to an employee if, in the course of the employee's employment, the employee has been, or the employer reasonably suspects that the employee has been, exposed to a scheduled carcinogenic substance in, or in connection with, a circumstance mentioned in column 3 of Schedule 1A in relation to that substance.

- (2) On the termination of the employee's employment, the employer must provide the employee with a written statement that includes the following information:
- (a) the name of each scheduled carcinogenic substance to which the employee was, or was likely to have been, exposed;
  - (b) the period of known exposure to the substance;
  - (c) the period of likely exposure to the substance;
  - (d) a copy of any relevant assessment report;
  - (e) details of how and where the employee can obtain any relevant additional records;
  - (f) the advisability of having periodic health assessments and the types of tests that are relevant.

Penalty: 10 penalty units.

- (3) If an employer reasonably suspects that an employee has been accidentally exposed to a scheduled carcinogenic substance, the employer must, as soon as practicable, notify the employee of that exposure.

Penalty: 10 penalty units.

**[26] Subregulation 6.20 (1)**

*omit*

regulation 6.16

*insert*

regulation 6.17

**[27] Subregulation 6.21 (1)**

*substitute*

- (1) An employer must provide health surveillance of an employee who has been identified, during a risk assessment, as being exposed to a hazardous substance if:
- (a) there is a significant risk to the health of the employee from a hazardous substance listed in Schedule 2; or
  - (b) the employer believes, or ought reasonably to believe, that:
    - (i) the exposure of the employee to the substance has the effect that an identifiable disease or other effect on health may be related to the exposure; and
    - (ii) there is a reasonable likelihood that the disease or other effect on health may occur under the particular conditions of work; and
    - (iii) there are valid techniques for detecting an indication of the disease or other effect on health; or
  - (c) there is a valid biological monitoring procedure available and a reasonable likelihood that accepted values might be exceeded.

Penalty: 10 penalty units.

**[28] Paragraph 6.21 (4) (c)**

*substitute*

- (c) if the employee is working in a lead-risk job — on the termination of the employee's employment, the employee is given access to the results of the health surveillance; and

- (d) Comcare is notified of any adverse result detected in health surveillance that is consistent with exposure to the relevant hazardous substance.

**[29] After subregulation 6.22 (2)**

*insert*

- (2A) If an assessment report, prepared for the purposes of this Part, identifies an employee as likely to have been exposed, in the course of the employee's employment, to a scheduled carcinogenic substance in, or in connection with, a circumstance mentioned in column 3 of Schedule 1A in relation to that substance, the employer to whom the report relates must:
  - (a) keep a record of the full name, date of birth and address of each employee who has been identified as a result of the report; and
  - (b) keep the report for at least 30 years from the date of the last entry in the report.

Penalty: 5 penalty units.

**[30] Subregulation 6.22 (4)**

*substitute*

- (4) If an employer that keeps a record referred to in subregulation (1), (2) or (2A) ceases operations in the State or Territory in which the record was created, the employer must give the record to Comcare.

Penalty: 5 penalty units.

**[31] Paragraph 6.23 (b)**

*omit*

Australia

[32] Part 6, Division 1, Subdivision D, heading

*substitute*

**Division 4 Employees' duties in relation to hazardous substances**

[33] Part 6, Divisions 2 and 3

*omit*

[34] Before Schedule 1

*insert*

**Schedule 1A Scheduled carcinogenic substances**

(regulations 6.03, 6.17A and 6.22)

| Column 1<br>Item No | Column 2<br>Substance name | Column 3<br>Circumstance  |
|---------------------|----------------------------|---|
| 1                   | 2-Acetylaminofluorene      | All circumstances   |
| 2                   | Aflatoxins                 | All circumstances   |
| 3                   | 4-Aminodiphenyl            | All circumstances   |
| 4                   | Amosite (brown asbestos)   | All circumstances other than the following circumstances:<br>(a) removal or disposal of amosite in accordance with a law of a State or Territory relating to the removal of asbestos; |

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| Column 1<br>Item No | Column 2<br>Substance name   | Column 3<br>Circumstance  |
|---------------------|--|---|
|                     |  | (b) disturbance of naturally occurring amosite that is incidental to operations not related to the extraction or processing of amosite, for example, roadworks  |
| 5                   | Benzidine and its salts, including benzidine dihydrochloride                   | All circumstances   |
| 6                   | bis(Chloromethyl) ether  | All circumstances   |
| 7                   | Chloromethyl methyl ether (technical grade containing bis(chloromethyl) ether) | All circumstances   |
| 8                   | Crocidolite (blue asbestos)  | All circumstances other than the following circumstances:<br>(a) removal or disposal of crocidolite in accordance with a law of a State or Territory relating to the removal of asbestos;<br>(b) disturbance of naturally occurring crocidolite that is incidental to operations not related to the extraction or processing of crocidolite, for example, roadworks |
| 9                   | 4-Dimethylaminoazobenzene  | All circumstances   |
| 10                  | 2-Naphthylamine and its salts  | All circumstances   |
| 11                  | 4-Nitrodiphenyl  | All circumstances   |
| 12                  | Acrylonitrile  | All circumstances   |

| Column 1<br>Item No | Column 2<br>Substance name                            | Column 3<br>Circumstance   |
|---------------------|---|--|
| 13                  | Benzene   | When contained in a feedstock containing more than 50% of benzene by volume  |
| 14                  | Chrysotile (white asbestos)                           | When used in the manufacture of asbestos products  |
| 15                  | Cyclophosphamide (cytotoxic drug)                     | 1. When contained in a preparation for therapeutic use in hospitals and oncological treatment facilities.<br>2. When used in manufacturing operations. |
| 16                  | 3,3'-Dichlorobenzidine and its salts                  | All circumstances  |
| 17                  | 3,3'-Dichlorobenzidine dihydrochloride                | All circumstances  |
| 18                  | Diethyl sulfate                                       | All circumstances  |
| 19                  | Dimethyl sulfate                                      | All circumstances  |
| 20                  | Ethylene dibromide                                    | When used as a fumigant  |
| 21                  | 4,4'-Methylene bis(2-chloroaniline) — known as 'MOCA' | All circumstances  |
| 22                  | 2-Propiolactone                                       | All circumstances  |
| 23                  | ortho-Toluidine                                       | All circumstances  |
| 24                  | ortho-Toluidine hydrochloride                         | All circumstances  |
| 25                  | Vinyl chloride monomer                                | All circumstances  |

*Note* Schedule 1A is not an exhaustive list of carcinogens used in workplaces. The absence of a substance from the Schedule should not be presumed to be indicative of the absence of a carcinogenic hazard. The general requirements of Part 6 apply to all carcinogenic substances that are hazardous substances within the meaning of regulation 6.03.

**[35] Schedule 1***substitute***Schedule 1 Hazardous substances**

(regulation 6.16)

**Part 1 Permitted circumstances for handling of certain hazardous substances**

| Column 1<br>Item No | Column 2<br>Substance name                     | Column 3<br>Permitted circumstance  |
|---------------------|--|---|
| 101                 | Polychlorinated biphenyls (also known as PCBs) | <ol style="list-style-type: none"> <li>1. Handling for storage prior to disposal.</li> <li>2. Removal or disposal.</li> <li>3. Use when contained in existing electrical equipment or construction material.</li> <li>4. Repair of existing electrical equipment or construction material.</li> </ol> |

**Part 2 Permitted circumstances for handling of certain hazardous substances with carcinogenic properties**

| Column 1<br>Item No | Column 2<br>Substance name | Column 3<br>Permitted circumstance |
|---------------------|----------------------------|------------------------------------|
| 201                 | 2-Acetylaminofluorene      | Bona fide research                 |
| 202                 | Aflatoxins                 | Bona fide research                 |
| 203                 | 4-Aminodiphenyl            | Bona fide research                 |

| Column 1<br>Item No | Column 2<br>Substance name   | Column 3<br>Permitted circumstance  |
|---------------------|--|---|
| 204                 | Amosite (brown asbestos)   | <ol style="list-style-type: none"> <li>1. Bona fide research.</li> <li>2. Removal or disposal of amosite in accordance with a law of a State or Territory relating to the removal of asbestos.</li> <li>3. Disturbance of naturally occurring amosite that is incidental to operations not related to the extraction or processing of amosite, for example, roadworks.</li> </ol>             |
| 205                 | Benzidine and its salts, including benzidine dihydrochloride                   | Bona fide research  |
| 206                 | bis(Chloromethyl) ether  | Bona fide research  |
| 207                 | Chloromethyl methyl ether (technical grade containing bis(chloromethyl) ether) | Bona fide research  |
| 208                 | Crocidolite (blue asbestos)  | <ol style="list-style-type: none"> <li>1. Bona fide research.</li> <li>2. Removal or disposal of crocidolite in accordance with a law of a State or Territory relating to the removal of asbestos.</li> <li>3. Disturbance of naturally occurring crocidolite that is incidental to operations not related to the extraction or processing of crocidolite, for example, roadworks.</li> </ol> |
| 209                 | 4-Dimethylaminoazobenzene  | Bona fide research  |

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| Column 1<br>Item No | Column 2<br>Substance name    | Column 3<br>Permitted circumstance |
|---------------------|-------------------------------|------------------------------------|
| 210                 | 2-Naphthylamine and its salts | Bona fide research                 |
| 211                 | 4-Nitrodiphenyl               | Bona fide research                 |

**[36] Schedule 2, after item 12***insert*

|    |                    |   |
|----|--------------------|---|
| 13 | Benzene            | Demography, occupational and medical history and health advice<br>Baseline blood sample for haematological profile<br>Records of personal exposure  |
| 14 | Creosote           | Demography, occupational and medical history<br>Health advice, including recognition of photosensitivity and skin changes<br>Physical examination with emphasis on the neurological system and skin, noting any abnormal lesions and evidence of skin sensitisation<br>Records of personal exposure, including photosensitivity |
| 15 | Inorganic chromium | Demography, occupational and medical history and health advice<br>Physical examination with emphasis on the respiratory system and skin<br>Weekly inspection of hands and forearms by the employee's supervisor   |

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|    |                   |   |
|----|-------------------|---|
| 16 | Pentachlorophenol | <p>Demography, occupational and medical history and health advice</p> <p>Physical examination with emphasis on the skin, noting any abnormal lesions or effects of irritancy</p> <p>Test for urinary free pentachlorophenol</p> <p>Dipstick urinalysis for haematuria and proteinuria</p> <p>Records of personal exposure</p> |
|----|-------------------|---|

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### Notes

1. These regulations amend Statutory Rules 1994 No. 414, as amended by 1995 Nos. 53, 98 and 337; 1996 Nos. 129 and 288; 1997 No. 227.
2. Made by the Administrator on *Commonwealth of Australia Gazette* on *1999*, and notified in the *1999*.

*30 April*  
*7 May*