

POISONS ACT 1966—REGULATION

(Relating to paints containing poisons and to other dangerous substances)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Poisons Act 1966, has been pleased to make the Regulation set forth hereunder.

RON PHILLIPS,
Minister for Health.

Commencement

1. (1) This Regulation commences on 20 November 1992, except for clause 2 (g).

(2) Clause 2 (g) commences on 2 January 1993.

Amendments

2. The Poisons Regulations are amended:

(a) by inserting in Regulation 13A (1) (b) after the words “which words shall appear” the matter “in letters of minimum height 2.5 millimetres”;

(b) by omitting Regulation 13A (2);

(c) by omitting Regulation 13A (4) and by inserting instead the following clause:

(4) In the case of a paint or tinter containing any of the following substances the proportion of the substance must be expressed as a percentage of the non-volatile content of the paint or tinter:

- (a) antimony or antimony compounds other than antimony titanate pigments (except in paints containing 5 per cent or less of antimony calculated as a proportion of the non-volatile content of the paint);
 - (b) barium salts other than barium sulphate or barium metaborate (except in paints containing 5 per cent or less of barium calculated as a proportion of the non-volatile content of the paint);
 - (c) cadmium or cadmium compounds (except in paints containing 0.1 per cent or less of cadmium calculated as a proportion of the non-volatile content of the paint);
 - (d) chromium as chromates of barium, potassium, sodium, strontium, zinc or ammonia (except in paints containing 5 per cent or less of chromium calculated as a proportion of the non-volatile content of the paint);
 - (e) lead or lead compounds (except in:
 - (i) paints containing 0.25 per cent or less of lead calculated as a proportion of the non-volatile content of the paint; and
 - (ii) automotive refinishing paints);
 - (f) selenium or selenium compounds (except in paints containing 0.1 per cent or less of selenium calculated as a proportion of the non-volatile content of the paint).
- (d) by omitting from Regulation 13A (6) the matter “1 per cent” and by inserting instead the matter “0.25 per cent”;
- (e) by omitting from Regulation 13A (6) the matter “2.25 millimetres” and by inserting instead the matter “2.5 millimetres”;
- (f) by inserting in alphabetical order in the list of substances in Regulation 38 (1) the following matter:
- aldoxycarb;
 - aminocarb except when included in Schedule 6 of the Poisons List;
 - dichlorvos except when included in Schedule 5 or 6 of the Poisons List;
 - endosulfan;
 - mercuric chloride when prepared for use for agricultural, industrial, pastoral or horticultural purposes;
 - nimadane except when included in Schedule 6 of the Poisons List;

- promecarb except when included in Schedule 6 of the Poisons List;
toxaphene;
triamphos;
- (g) by omitting Regulation 39D (1A) and by inserting instead the following clause:
- (1A) A person must not supply paraquat unless the paraquat:
- (a) is prepared for herbicide use; and
- (b) is supplied in a container or primary pack containing not less than 5 kilograms of the product in which the paraquat is contained; and
- (c) when supplied in liquid preparation, is coloured blue or green and contains sufficient stenching agent to produce an offensive odour.
- (h) by inserting in alphabetical order in the list of substances in Regulation 40 (1) (a) the following matter:
- fluoroacetamide;
phosphorus, yellow (excluding its salts and derivatives);
- (i) by inserting in alphabetical order in the list of substances in Regulation 40A (1) the following matter:
- acrolein;
allyl alcohol;
4-aminopyridine except when included in Schedule 4 of the Poisons List;
arprinocid;
aziprotryn;
betahydroxyethylhydrazine;
bromine (excluding its salts and derivatives);
brucine except when used in concentrations of 0.02 per cent or less for the denaturation of alcohol;
chlorine (excluding its salts and derivatives);
4-chloro-o-toluidine;
chloropicrin except when included in Schedule 6 of the Poisons List;
chlorpropham;
cyanides except:
- (a) ferricyanides; or
- (b) ferrocyanides;

1, 3-dichloropropene;
dimetilan;
epichlorohydrin;
ethidimuron;
ethylene oxide;
fenoxacarim except:
 (a) when included in Schedule 6 of the Poisons List; or
 (b) in treated carpets;
ferbam;
flocoumafen except when included in Schedule 6 of the Poisons List;
hydrocyanic acid (excluding its salts and derivatives) except when included in Schedule 4 of the Poisons List;
hydrofluoric acid (including hydrosilicofluoric acid but excluding their salts and derivatives) except when included in Schedule 5 or 6 of the Poisons List;
iodofenphos;
maneb;
methacrifos;
methyl bromide;
nabam;
nicotine except:
 (a) when included in Schedule 3, 4 or 6 of the Poisons List;
 or
 (b) in tobacco prepared and packed for smoking;
phenkapton;
phosphine;
propylene oxide;
rafoxanide;
sebumeton;
sulcofuron except:
 (a) when included in Schedule 6 of the Poisons List; or
 (b) in treated carpets;
tetrachloroethane;
2,2', 6,6'-teraisopropyl-diphenyl-carbodiimide except when included in Schedule 6 of the Poisons List;
tributylphosphorotrithioite;

trichloroisocyanuric acid except:

- (a) when included in Schedule 5 of the Poisons List; or
- (b) in preparations containing 4 per cent or less of available chlorine;

zineb,

- (j) by omitting from the list of substances in Regulation 40A (1) the matter “triazbutil,” and by inserting instead the matter “triazbutil;”;
- (k) by inserting in alphabetical order in the list of substances in Regulation 42 (1) (a) the following matter:
 - abrus precatorius (jequirity) seed or root for therapeutic use;
 - anchusa officinalis for therapeutic use;
 - aristolochia spp. for therapeutic use;
 - bithionol for human therapeutic use;
 - borago officinalis (borage) for therapeutic use except the fixed oil derived from the seeds of borago officinalis;
 - cacalia spp. for therapeutic use;
 - calamus for human therapeutic use;
 - coniine;
 - cotarnine;
 - crotalaria spp. for therapeutic use;
 - cynoglossum officinale for therapeutic use;
 - cynoglossum spp. for therapeutic use except when separately specified in this regulation;
 - dulcin;
 - farfugium japonicum for therapeutic use;
 - heliotropium ramosissimum for therapeutic use;
 - heliotropium spp. for therapeutic use except when separately specified in this regulation;
 - heliotropium supinum for therapeutic use;
 - ligularia dentata for therapeutic use;
 - oxyphenisatin;
 - petasites japonicum for therapeutic use;
 - petasites spp. for therapeutic use except when separately specified in this regulation;
 - pteridium aquilinum for therapeutic use;
 - pteridium spp. for therapeutic use except when separately specified in this regulation;

- pulmonaria spp. for therapeutic use;
 - senecio cannabifolius for therapeutic use;
 - senecio jacobaea for therapeutic use;
 - senecio longilobus for therapeutic use;
 - senecio numorensis fuchsii for therapeutic use;
 - senecio spp. for therapeutic use except when separately specified in this regulation;
 - symphytum officinale (comfrey) for therapeutic use;
 - symphytum spp. (comfrey) for therapeutic use except when separately specified in this regulation;
 - trichodesma africana for therapeutic use;
 - tussilago farfara for therapeutic use;
- (l) by omitting from the column headed “Strength” in the Table to Regulation 43 (1) (f) from the matter relating to frusemide the matter “20 mg” and by inserting instead the matter “80 mg”;
 - (m) by omitting from the column headed “Strength” in the Table to Regulation 43 (1) (f) from the matter relating to naloxone the matter “400 micrograms” and by inserting instead the matter “2 mg”;
 - (n) by omitting from Appendix F Warning Label (a) and by inserting instead the following matter:
 - (a) “This paint presents a danger to children from eating the dried paint and must not be used on the interior or exterior surfaces of any building other than a building used exclusively for industrial purposes, or on any toy, furniture, fence, wall, post, gate or on any roof or on any surface used for the collection or storage of potable water or on any premises used for the manufacture, preparation or serving of products intended for human consumption.”
 - (o) by omitting from the matter following Warning Label (a) in Appendix F the matter relating to arsenic and mercury;
 - (p) by inserting in the matter following Warning Label (a) in Appendix F in alphabetical order the following matter:
 - Chromium as chromates of barium, potassium, sodium, strontium, zinc or ammonia in paints containing more than 5 per cent of chromium calculated as a proportion of the non-volatile content of the paint.
 - (q) by omitting from the matter relating to lead in the list of substances following Warning Label (a) in Appendix F the matter “1 per cent” and by inserting instead the matter “0.25 per cent”;

- (r) by omitting from Appendix F Warning Label (b) and by inserting instead the following matter:
 - (b) “PROVIDE ADEQUATE VENTILATION DURING APPLICATION. Breathing the vapour is dangerous. Do not use in the presence of a naked flame. Do not smoke.”
- (s) by omitting the matter following Warning Label (b) in Appendix F and by inserting instead the following matter:
 - ortho-Dichlorobenzene (1,2-dichlorobenzene) in paints containing more than 5 per cent by weight of ortho-dichlorobenzene.
 - Ethylene dichloride (1,2-dichloroethane) in paints containing more than 5 per cent by weight of ethylene dichloride.
 - Ethylene glycol monoalkyl ethers and their acetates in paints containing more than 10 per cent by volume of ethylene glycol monoalkyl ethers and their acetates.
 - Methylene chloride (dichloromethane) in paints containing more than 5 per cent by weight of methylene chloride.
 - Toluene in paints containing more than 50 per cent by volume of toluene.
 - Trichloroethylene (trichloroethene) in paints containing more than 5 per cent by weight of trichloroethylene.
 - Xylene in paints containing more than 50 per cent by volume of xylene.
- (t) by omitting from Appendix F Warning Label (c) and by inserting instead the following matter:
 - (c) “This tinter contains lead. Paint containing more than *(insert the number of millilitres or grams that would not increase the lead content of a paint by more than 0.25 per cent by weight)* of this tinter per litre must not be used on toys, furniture, roofs, fences, walls, posts or gates or on buildings other than industrial buildings or on premises used for the manufacture, preparation or serving of products intended for human consumption.”

EXPLANATORY NOTE

The Standard for the Uniform Scheduling of Drugs and Poisons (the SUSDP) of the National Health and Medical Research Council (a Commonwealth body) makes recommendations for the classification and control of drugs and poisons. Those controls are effected in New South Wales by regulating the substances concerned under the Poisons Regulations. The object of this Regulation is to make controls of

paints containing poisons and of certain other substances in New South Wales consistent with the recommendations.

Appendix P of the SUSDP (the “Uniform Paint Standard”) sets out various prohibitions regarding paints containing particular substances and imposes labelling requirements in respect of those paints. Regulation 13A of the Poisons Regulations is concerned with the labelling of paints and Appendix F is concerned with warning labels for paints and tinters containing poisons. Accordingly, clause 2 of this Regulation makes the following amendments to that Regulation and Appendix:

- paragraph (a) specifies the required height of letters on a label stating that the product concerned is to be kept away from children and paragraph (e) increases the existing height requirement for lettering on a label relating to certain automotive paints;
- paragraph (b) omits a labelling requirement that is inconsistent with Appendix P;
- paragraph (c) amends the list of substances whose existence in a paint or tinter must be shown as a percentage of the non-volatile content of the paint or tinter and paragraph (d) is consequential on that amendment;
- paragraphs (n), (r) and (t) replace certain Warning Labels in Appendix F;
- paragraphs (o), (p) and (q) amend the list of substances to which Warning Label (a) of Appendix F applies and paragraph (s) amends the list of substances to which Warning Label (b) of that Appendix applies.

Appendix J of the SUSDP recommends certain controls for poisons included in Schedule 7 of that Standard (that is, poisons requiring special precautions in manufacture, handling, storage or use, or special individual regulations regarding labelling or availability). Clause 2 draws the law in New South Wales into line with that Appendix in the following way:

- paragraphs (f), (h), (i) and (k) add substances to the lists of substances to which Regulations 38 (1), 40 (1) (a), 40A (1) and 42 (1) (a) (respectively) apply. (Those regulations provide various controls over the use of the substances concerned.);
- paragraph (j) is consequential on the amendment made by paragraph (i);
- paragraph (g) regulates the way in which parquat is to be supplied.

The Regulation also (in clause 2 (1) and (m)) amends the strength of 2 restricted substances which may be used by paramedics.
