

**OCCUPATIONAL HEALTH AND SAFETY ACT 1983—  
REGULATION**

(Occupational Health and Safety (Carcinogenic Substances) (Transitional)  
Regulation 1994)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Occupational Health and Safety Act 1983, has been pleased to make the Regulation set forth hereunder.

Kerry Chikarovski, MP  
Minister for Industrial Relations and Employment.

**Citation**

1. This Regulation may be cited as the Occupational Health and Safety (Carcinogenic-Substances) (Transitional) Regulation 1994.

**Commencement**

2 This Regulation commences on 1 September 1994.

**Definitions**

3. In this Regulation:

“**carcinogenic substance**” means a substance referred to in Schedule 1, but does not include any derivative of such a substance;

“**Poisons List**” means the list proclaimed under section 8 of the Poisons Act 1966;

“**purchaser’s permit**” means a permit in force under this Regulation;

“**the Act**” means the Occupational Health and Safety Act 1983.

**Offences in relation to carcinogenic substances**

**4. (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.

**(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 the Workcover Authority 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: 10 penalty units.

**Applications for purchasers' permits**

**5. (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 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 the WorkCover Authority.
- (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, the Workcover Authority may require the applicant to furnish further information in support of the application.

#### **Determination of applications**

6. The Workcover Authority 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.

#### **Suspension and cancellation of authorities**

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

#### **Transitional**

8. For the purposes of this Regulation:
- (a) a written authority that was in force, immediately before the commencement of this Regulation, under Regulation 42A of the Poisons Regulations is taken to be a purchaser's permit in force under this Regulation; and
  - (b) a written notice given to the Director-General of the Department of Health in accordance with Regulation 42A of the Poisons Regulations is taken to have been given to the WorkCover Authority in accordance with this Regulation; and

- (c) the suspension of a written authority that was in force, immediately before the commencement of this Regulation, under Regulation 42A of the Poisons Regulations is taken to be a suspension in force under this Regulation.

### Expiry of Regulation

9. This Regulation expires on 1 September 1996.

### SCHEDULE 1—CARCINOGENIC SUBSTANCES

(C1.3)

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  
 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

## TABLE OF PROVISIONS

1. Citation
2. Commencement
3. Definitions
4. Offences in relation to carcinogenic substances
5. Applications for purchasers' permits
6. Determination of applications
7. Suspension and cancellation of authorities
8. Transitional
9. Expiry of Regulation

SCHEDULE 1—CARCINOGENIC SUBSTANCES

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**EXPLANATORY NOTE**

The object of this Regulation is to remake Regulation 42A of the Poisons Regulations as a new transitional Regulation under the Occupational Health and Safety Act 1983. Regulation 42A is being omitted from the Poisons Regulations as responsibility for carcinogenic substances (the subject-matter of the new Regulation) is being transferred from the Department of Health to the Workcover Authority.

The new Regulation deals with the following matters:

- (a) the regulation of the use, supply and storage of carcinogenic substances at places of work (clause 4);
- (b) the issuing of purchasers' permits to persons by whom carcinogenic substances are used (clauses 5 and 6);
- (c) the suspension and cancellation of purchasers' permits (clause 7);
- (d) other matters of a formal or machinery nature (clauses 1, 2, 3, 8 and 9).

The Regulation is expressed to expire on 1 September 1996.

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.

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