

[3695]



Government Gazette

OF

WESTERN AUSTRALIA

(Published by Authority at 3.30 p.m.)

No. 74]

PERTH: THURSDAY, 16 SEPTEMBER

[1982

HEALTH ACT 1911.

TOXIC AND HAZARDOUS SUBSTANCES REGULATIONS

Published in the *Government Gazette* on 23 January 1968 and now reprinted, pursuant to the Reprinting of Regulations Act 1954, incorporating the amendments thereto published in the *Government Gazette* on—

6 February 1968;
28 October 1971;
22 December 1972;

3 May 1974; and
20 November 1981.

Reprinted pursuant to the Reprinting of Regulations Act 1954, by authority of the Attorney General dated 10 September 1982.

HEALTH ACT 1911.

TOXIC AND HAZARDOUS SUBSTANCES REGULATIONS

1. These regulations may be cited as the Toxic and Hazardous Substances Regulations. Amended by
G.G. 20/11/81,
p. 4740.
2. These regulations have effect in every municipal district within the State.
3. In these regulations, unless the contrary intention appears—
 - “lead content” means the total lead content calculated as lead (Pb) and expressed as a percentage of the non-volatile content of the paint;
 - “non-volatile content” means that portion of the paint as determined by method laid down by the Standards Association of Australia and described as “AS 1580 method 30.1”;
 - “paint” without limiting the ordinary meaning of the term, includes any oil paint, water paint, enamel, varnish, lacquer, liquid plastic and any similar substance used or intended to be used for application as a colouring or protective coating to any surface, and also includes solvents, driers, stainers, tinters and curing agents except when packed for retail sale for use other than in or with paint;
 - “the Act” means the Health Act 1911;
 - “tinter” means any pigment or admixture of pigment with other substances, in powder or liquid form, sold for the purpose of adding to paint in order to change the colour thereof; and
 - “toy” means an object or number of objects manufactured and designed, labelled or marketed as a play-thing for children up to the age of 14 years.
4. For the purposes of paragraph (21) of section 199 of the Act, and these regulations—Amended by
G.G. 28/10/71,
p. 4196;
G.G. 22/12/72,
p. 4767;
G.G. 3/5/74,
p. 1440;
G.G. 20/11/81,
p. 4740.
 - (a) lead and lead carbonate, and each of the substances specified in Appendix 1, 2 or 3 to these regulations, when contained in paint, are declared to be toxic substances; and
 - (b) methyl chloride and substances containing or made up from cellulose nitrate or material containing cellulose nitrate, including the substance known as celluloid or xylonite are specified to be hazardous substances;
 - (c) the flora or the seed, fruit, pod or other parts of that flora specified in Appendix 4 to these regulations are declared to be toxic and hazardous substances;
 - (d) lead when contained in paint on pottery that is likely to come into contact with any food or beverage if there may be released from the pottery 7 milligrams per litre or more of lead as determined by the A.S.T.M. method C-555-71 “Estimation of Lead Extracted from Glazed Ceramic Surfaces” is declared to be a toxic substance.
5. A person shall not use or sell or give to any other person for use by that other person any nipple shield of which lead or any compound of lead is a component.

Inserted by
G.G. 22/12/72,
p. 4767.
Amended by
G.G. 3/5/74,
p. 1440;
G.G. 20/11/81,
p. 4740.

5A. A person shall not sell any pottery that is likely to come in contact with any food or beverage if there may be released from the pottery 7 milligrams per litre or more of lead as determined by the A.S.T.M. method C-555-71 "Estimation of Lead Extracted from Glazed Ceramic Surfaces".

6. (1) A person shall not manufacture any paint containing lead carbonate.

(2) A person shall not sell or use any paint containing lead carbonate, except where the paint was manufactured before the coming into operation of these regulations.

Erratum
G.G. 6/2/68,
p. 238.
Amended by
G.G. 3/5/74,
p. 1440;
G.G. 20/11/81,
p. 4740.

7. (1) A person shall not sell any paint unless the container or package immediately containing the paint bears a statement or label which—

- (a) shows the trade name or a description of the paint;
- (b) shows the name and address of the vendor or manufacturer of the contents;
- (c) contains the statement "PROVIDE ADEQUATE VENTILATION DURING USE"; and
- (d) shows the net weight or true volume of measure of the contents.

(2) A person shall not sell any paint containing any substance specified in Appendix 1, 2 or 3 to these regulations unless the label on the container or package immediately containing the paint bears, in a prominent position, the following words and statements—

- (a) The word "WARNING" in red letters on a white ground, such letters to be bold face sans serif capitals not less in size than is shown in the following table:—

Size of Container or Package	Size of Type Face
Less than 570 millilitres	8 points
Not less than 570 millilitres but less than 1.13 litres	10 points
Not less than 1.13 litres but less than 2.27 litres	12 points
Not less than 2.27 litres	30 points;

- (b) immediately below or following the word "WARNING" one or more of the following statements, as the case requires, in letters of not less than 6 points face measurement and of such a colour as to afford a distinct colour contrast to the ground—

- (i) if the paint contains any substance specified in Appendix 1 to these regulations, the statements—

"KEEP OUT OF REACH OF CHILDREN."

"DO NOT USE ON ROOFS, DWELLINGS, FURNITURE, TOYS, ANY SURFACE ACCESSIBLE TO CHILDREN, OR ANY CONTAINER OR SURFACE WHICH MAY COME INTO CONTACT WITH FOOD";

- (ii) if the paint contains any substance specified in Appendix 2 to these regulations, the statements—

"KEEP OUT OF REACH OF CHILDREN."

"AVOID PROLONGED BREATHING OF FUMES. WHERE VENTILATION IS POOR OR WHERE APPLIED BY SPRAY, USE SUITABLE RESPIRATORY EQUIPMENT AT ALL TIMES. DO NOT USE IN PRESENCE OF NAKED FLAME. DO NOT SMOKE.";

- (iii) if the paint contains any substance specified in Appendix 3 to these regulations, the statements—

“KEEP OUT OF REACH OF CHILDREN.”
 “AVOID CONTACT WITH SKIN AND EYES.”
 “THE USE OF GLOVES AND GOGGLES IS RECOMMENDED.”; and

- (c) where paint contains one or more per centum of lead, one of the following statements shall appear in the main panel of the label in letters not less in size than is prescribed by paragraph (a) of this regulation—

- (i) where the paint contains not more than five per centum of lead—

LEAD CONTENT
 NOT MORE THAN 5% ; or

- (ii) where the paint contains more than five per centum of lead—

LEAD CONTENT
 MORE THAN 5% .

(3) Where paint contains less than one per centum of lead, the container or package immediately containing the paint may bear the statement “LEAD FREE”.

(4) Notwithstanding subregulation (2) of this regulation, the Commissioner may approve of a smaller size of letters on a container or package than that prescribed by subregulation (2) where he is satisfied that the size of the letters prescribed by the subregulation is excessive in relation to the size of the container or package.

8. It is a defence to a prosecution for an alleged offence against regulation 7 of these regulations to prove that the paint to which the prosecution relates was manufactured prior to the coming into operation of these regulations.

9. (1) A person shall not use any paint containing any substance specified in Appendix 1 to these regulations on any part of—

Amended by
G.G. 22/12/72,
 p. 4767;
G.G. 20/11/81,
 p. 4741.

- (a) any dwelling or any building appurtenant thereto, or any fence, wall, post, gate or other improvement erected or constructed for use in connection with a dwelling;
- (b) any furniture;
- (c) any toy, paper, pencil;
- (d) any wrap, container or surface that is likely to come into contact with food; or
- (e) the external surface of any roof,

and a person shall not use any paint containing lead on any pottery that is likely to be used for any food or beverage if there may be released from the pottery 7 milligrams per litre or more of lead as determined by the A.S.T.M. method C-555-71 “Estimation of Lead Extracted from Glazed Ceramic Surfaces”.

(1a) A person shall not manufacture, sell or use any of the following products unless they comply with the Australian Standards AS 1647, Part 3—1980—

- (i) finger colours;
- (ii) show card colours;
- (iii) poster paints;
- (iv) school pastels or crayons;
- (v) pencils;
- (vi) toys;
- (vii) wall-paper; and
- (viii) wraps, containers or products the surfaces of which are likely to come into contact with food.

6

(2) Where any paint has been used contrary to the provisions of subregulation (1) of this regulation, the Commissioner may—

- (a) by notice in writing to the owner of the building or object, require such paint to be cleaned down, removed or rendered harmless in a manner specified in the notice; or
- (b) where the paint was applied to any paper, toy, pencil or other small article which it is impracticable to render harmless the Commissioner may by notice in writing order the article to be disposed of in the manner specified in the notice.

(3) A notice given under subregulation (2) of this regulation shall specify the period within which the action ordered is to be taken by the notice, must be completed.

(4) A person who fails to comply with the terms of a notice that has been given under subregulation (2) of this regulation and served upon him commits an offence.

Erratum
G.G. 6/2/68,
p. 238.

10. A person shall not sell or have in his possession for sale any toy which is manufactured wholly or partly from any substance containing or made up from cellulose nitrate or material containing cellulose nitrate, including the substance known as celluloid or xylonite, unless the toy carries a label that is clearly visible to the purchaser and shows the statement—

WARNING

Celluloid

Highly Inflammable

with the word "WARNING" in sans serif capital letters of not less than eight points face measurement.

11. A person shall not—

- (a) sell, hire, offer or expose for sale or hire, any refrigeration equipment in which methyl chloride is used;
- (b) add methyl chloride to any refrigeration equipment; or
- (c) replace any methyl chloride used in any refrigeration equipment with or by methyl chloride.

Inserted by
G.G. 28/10/71,
p. 4196.

11A. A person shall not use or sell or give to any other person for use by that other person any goods made or manufactured wholly or partly from any substance specified in Appendix 4 to these regulations.

Erratum
G.G. 6/2/68,
p. 238.

12. A person who contravenes or fails to comply with any provisions of these regulations or a notice given under regulation 9 of these regulations commits an offence.

Amended by
G.G. 20/11/81,
p. 4741.

Appendix 1.

Lead and compounds of lead where the lead content is 1.0 per cent. or more.

Arsenic and compounds of arsenic exceeding 0.1 per cent. calculated as As on the non-volatile content of the paint.

Cadmium and compounds of cadmium exceeding 0.1 per cent. calculated as Cd on the non-volatile content of the paint.

Selenium and compounds of selenium exceeding 0.1 per cent. calculated as Se on the non-volatile content of the paint.

Mercury and compounds of mercury exceeding 0.1 per cent. calculated as Hg on the non-volatile content of the paint.

Antimony and compounds of antimony exceeding 5.0 per cent. calculated as Sb on the non-volatile content of the paint.

Barium salts (except barium sulphate and barium metaborate) in paints containing more than 5.0 per cent. barium calculated as a proportion of the non-volatile content of the paint.

7

Chromates and dichromates of alkali metals and ammonia in paints containing more than 5 per cent. of chromium in these forms calculated as a proportion of the non-volatile content of the paint.

Tin organic compounds, being di-alkyl, tri-alkyl and tri-phenyl tin compounds, where the alkyl group is methyl, ethyl, propyl or butyl, not specified in the Poisons Act 1964 in paints containing more than 3 per cent of these compounds calculated as tin as a proportion of the non-volatile content of the paint.

Appendix 2.

Benzene over 1.5 per cent. by volume in the total volume of the paint.
Dichloroethane over 5.0 per cent. by weight on total weight of the paint.
Dichloroethylene over 10.0 per cent. by weight on total weight of the paint.
Dichlorobenzene over 5.0 per cent. by weight on total weight of the paint.
Dichloromethane (Methylene Chloride) over 5.0 per cent by weight on total weight of the paint.
Methanol over 1.0 per cent. by weight on total weight of the paint.
Nitrobenzene over 1.0 per cent. by weight on total weight of the paint.
Pyridine over 2.0 per cent. by weight on total weight of the paint.
Trichloroethylene over 5.0 per cent. by weight on total weight of the paint.
Uncombined Organic Isocyanates over 0.1 per cent. by weight on total weight of the paint.

Erratum
G.G. 6/2/68,
p. 238.
Amended by
G.G. 20/11/81,
p. 4741.

Appendix 3.

Accelerators, curing agents and catalysts (excluding driers).
Raw Epoxide resins.
Formaldehyde over 0.2 per cent. by weight on total weight of paint.
Uncombined Organic Isocyanates over 0.1 per cent. by weight on total weight of paint.
Oxalic Acid over 0.5 per cent. by weight on total weight of paint.
Pentachlorophenol over 0.25 per cent. by weight on total weight of paint.

Erratum
G.G. 6/2/68,
p. 238.

Appendix 4.

Abrus precatorious L.

Inserted by
G.G. 28/10/71,
p. 4196.

Appendix 5.

The Standard for maximum permissible levels of toxic substances including paint that may be present in toys shall comply with the Australian Standards AS 1647, Part 3—1980.

Inserted by
G.G. 20/11/81,
p. 4741.