

# Occupational Health and Safety Regulations 2017

## S.R. No. 22/2017

### Chapter 4—Hazardous substances and materials

**NOTE: THE FOLLOWING EXTRACT PART 4.1 WAS CORRECT AS AT 12 NOVEMBER 2024. PLEASE NOTE REGULATIONS DO CHANGE AND THAT IT IS RECOMMENDED THAT YOU GO TO THE OHS REGULATIONS 2017 TO ENSURE THAT YOU HAVE THE MOST UP TO DATE VERSION**

#### Chapter 4—Hazardous substances and materials

##### Part 4.1—Hazardous substances

##### Division 1—Introductory matters

#### 140 Application of Part

- (1) This Part does not apply to the following classes of substance if the use of the substance is not related to a work activity—
  - (a) food within the meaning of the **Food Act 1984**;
  - (b) therapeutic goods within the meaning of the Therapeutic Goods Act 1989 of the Commonwealth;
  - (c) cosmetics;
  - (d) tobacco or products made of tobacco;
  - (e) toiletries and toilet products.
- (2) This Part does not apply to—
  - (a) any culture or preparation of pathogenic micro-organisms or other material capable of causing disease in humans in relation to which regulations may be made under section 238(1)(u) of the **Public Health and Wellbeing Act 2008**; or
  - (b) radioactive materials within the meaning of the **Radiation Act 2005**; or
  - (c) asbestos.
- (3) This Part applies to scheduled carcinogenic substances.
- (4) This Part does not apply to the transport of hazardous substances.

#### Division 2—Duties of manufacturers and suppliers

##### Subdivision 1—Introductory matters

#### 141 Application of Division

- (1) This Division applies to the manufacture and supply of hazardous substances, including hazardous substances containing—
  - (a) lead; or
  - (b) organic lead compounds.

##### **Note**

Supply includes supply of hazardous substances by an importing supplier.

- (2) In this Division, the duties of a manufacturer only apply to the manufacture of a substance at a workplace for sale or exchange to another workplace.
- (3) In this Division, the duties of a manufacturer or a supplier do not apply in relation to a substance that is produced as a waste—



- (a) during the process of manufacturing a substance; or
  - (b) when a substance is used at a workplace
- (4) Subregulation (3) does not apply if the waste is produced for the purposes of sale or exchange to another workplace.

#### 142 Certain regulations not to apply

Subdivision 2 and regulations 144 and 149 do not apply to a substance supplied to a workplace for the purpose of determining whether the substance is a hazardous substance. Authorised by the Chief Parliamentary Counsel

#### Subdivision 2—Determination of hazardous substances

##### 143 Determination of hazardous substances

- (1) A manufacturer or an importing supplier of a substance must determine whether a substance is a hazardous substance before the substance is first supplied to a workplace.

##### Notes

1 Act compliance—sections 29 and 30 (see regulation 7).

2 A manufacturer or importing supplier must refer to the GHS, as modified by Schedule 7 in making this determination—see the definition of **hazardous substance** in regulation 5.

- (2) Subregulation (1) does not apply to a substance if a determination in relation to the substance has already been made under equivalent legislation.

#### Subdivision 3—Safety data sheet

##### 144 Preparation of a safety data sheet

- (1) A manufacturer or an importing supplier of a hazardous substance must prepare a safety data sheet in accordance with regulation 145 before the substance is first supplied to a workplace.

##### Note

Act compliance—sections 29 and 30 (see regulation 7).

- (2) Subregulation (1) does not apply to a manufacturer or an importing supplier who has already prepared a safety data sheet for the substance in accordance with equivalent legislation.

##### 145 What must a safety data sheet contain?

- (1) The safety data sheet for a hazardous substance must contain the following—
- (a) the product identifier and chemical identity of the substance;
  - (b) the name, address and telephone number of—
    - (i) the manufacturer of the substance in Australia; or
    - (ii) the importing supplier of the substance in Australia;

- (c) an Australian telephone number where information about the substance can be obtained in an emergency;
  - (d) the date of preparation or last review of the safety data sheet;
  - (e) the hazard identification for the substance determined in accordance with the GHS;
  - (f) the hazard statement and precautionary statement for the substance;
  - (g) composition of and information about ingredients, in accordance with Schedule 8;
  - (h) first aid measures;
  - (i) firefighting measures;
  - (j) accidental release measures;
  - (k) exposure controls, exposure standards (if any), engineering controls and personal protection information;
  - (l) information relating to handling and storage, including how the substance may be safely used;
  - (m) disposal considerations;
  - (n) information relating to the physical and chemical properties of the substance;
  - (o) stability and reactivity information;
  - (p) toxicological information, including health effects.
- (2) The safety data sheet must be in English and legible.
- (3) A manufacturer or importing supplier may prepare a safety data sheet with the information required by subregulation (1) in languages in addition to English.

#### **146 Review and revision of safety data sheet**

- (1) A manufacturer or an importing supplier of a hazardous substance must review and, if necessary, revise the safety data sheet for a substance—
- (a) as often as is necessary to ensure that the safety data sheet contains current and accurate information; and
  - (b) at least every 5 years.

#### **Note**

Act compliance—sections 29 and 30 (see regulation 7).

- (2) Subregulation (1) does not apply if the manufacturer or importing supplier of a hazardous substance has not supplied the hazardous substance to any person or any premises for a period of 5 years since the safety data sheet for the hazardous substance was prepared or last revised.

#### **147 Duty to provide current safety data sheet**

- (1) A manufacturer or supplier of a hazardous substance must ensure that a copy of the current safety data sheet for the substance is provided—



- (a) to any person to whom the substance is supplied on or before the first occasion that the substance is supplied to that person; and
- (b) on request, to an employer who proposes to use the hazardous substance at a workplace.

**Notes**

- 1 Act compliance—sections 29 and 30 (see regulation 7).
- 2 In subregulation (1), a reference to "supplier" includes importing supplier.

- (2) It is sufficient compliance with subregulation (1) if one person with a duty under the subregulation complies with the subregulation.

**Example**

If a manufacturer of a hazardous substance complies with subregulation (1) in relation to a hazardous substance in a circumstance to which subregulation (1) applies, a supplier of the hazardous substance need not also comply in relation to the hazardous substance in that circumstance.

- (3) Subregulation (1) does not apply—
  - (a) to a retailer or a retail warehouse operator if the hazardous substance is supplied in a consumer package; or
  - (b) if the hazardous substance is supplied to the fuel tank of a vehicle as fuel for the vehicle.

**148 Duty to provide revised safety data sheet**

- (1) If the safety data sheet for a hazardous substance is revised under regulation 146, a manufacturer or supplier of the substance must ensure that a copy of the revised safety data sheet is provided to any person to whom the substance is supplied on or before the first occasion that the substance is supplied to that person after the revision.

**Notes**

- 1 Act compliance—sections 29 and 30 (see regulation 7).
- 2 In subregulation (1), a reference to "supplier" includes importing supplier.

- (2) It is sufficient compliance with subregulation (1) if one person with a duty under the subregulation complies with the subregulation.

**Example**

If a manufacturer of a hazardous substance complies with subregulation (1) in relation to a hazardous substance in a circumstance to which subregulation (1) applies, a supplier of the hazardous substance need not also comply in relation to the hazardous substance in that circumstance.

- (3) Subregulation (1) does not apply—
  - (a) to a retailer or a retail warehouse operator if the hazardous substance is supplied in a consumer package; or
  - (b) if the hazardous substance is supplied to the fuel tank of a vehicle as fuel for the vehicle.

#### Subdivision 4—Labels

##### 149 Manufacturers and importing suppliers must label containers

- (1) A manufacturer or an importing supplier of a hazardous substance must correctly label any container that contains a hazardous substance in accordance with subregulations (3), (4) and (5) before the substance is supplied to a workplace.  
Penalty: 100 penalty units for a natural person;  
500 penalty units for a body corporate.
- (2) Subregulation (1) does not apply if a container that contains a hazardous substance is supplied to a workplace for the purposes of affixing the label in order to comply with this regulation.
- (3) Subject to subregulation (4), the label must contain the following—
  - (a) the product identifier of the hazardous substance;
  - (b) the name, address and telephone number of—
    - (i) the manufacturer of the substance in Australia; or
    - (ii) the importing supplier of the substance in Australia;
  - (c) for each ingredient of the hazardous substance—the identity and proportion which must be disclosed in accordance with Schedule 8;
  - (d) any hazard pictogram consistent with the correct classification of the substance;
  - (e) any hazard statement, signal word and precautionary statement consistent with the correct classification of the substance.
- (4) If a hazardous substance is packed in a container that is too small for a label attached to it to include all the information referred to in subregulation (3), the label must contain the following—
  - (a) the product identifier of the hazardous substance;
  - (b) the name, address and telephone number of—
    - (i) the manufacturer of the substance in Australia;
    - (ii) the importing supplier of the substance in Australia;
  - (c) a hazard pictogram or hazard statement consistent with the correct classification of the substance;
  - (d) any other information referred to in subregulation (3) that it is reasonably practicable to include.
- (5) The label must be in English, legible and firmly secured to the container.
- (6) A manufacturer or importing supplier may label a container with the information required by this regulation in languages in addition to English.

##### 150 Recognition of other labelling systems

- (1) A manufacturer or an importing supplier of a hazardous substance need not comply with regulation 149 if—
  - (a) the container is labelled in accordance with equivalent legislation including, if required under that equivalent legislation, the clear and prominent display of signal words; or



- (b) in the case of an agricultural or veterinary chemical—
  - (i) the container is labelled in accordance with the Agricultural Labelling Code and the Veterinary Labelling Code of the Australian Pesticides and Veterinary Medicines Authority, as in force from time to time; and
  - (ii) the label is in English and legible; and
  - (iii) the label is firmly secured to the container; and
- (iv) the label includes any hazard statement consistent with the correct classification of the chemical; and
- (v) the label includes any precautionary statement consistent with the correct classification of the chemical; or
- (c) in the case of a substance that is "therapeutic goods" within the meaning of the Therapeutic Goods Act 1989 of the Commonwealth, the container is labelled in accordance with an order in force under section 10 of the Therapeutic Goods Act 1989 of the Commonwealth, as in force at the time of labelling; or
- (d) the substance is a poison or controlled substance within the meaning of the **Drugs, Poisons and Controlled Substances Act 1981** and the container is labelled in accordance with the current Poisons Standard as in force at the time of labelling and—
  - (i) the container for the substance has its original label; and
  - (ii) it is reasonably foreseeable that the substance will be used at a workplace only in—
    - (A) a quantity that is consistent with household use; and
    - (B) a way that is consistent with household use; and
    - (C) a way that is incidental to the nature of the work carried out by a person using the substance; or
- (e) the substance is—
  - (i) a veterinary chemical product within the meaning of the Agvet Code; and
  - (ii) listed in—
    - (A) the current Poisons Standard, Schedule 4, if the substance is packaged and supplied in a form intended for direct administration to an animal for therapeutic purposes; or
    - (B) the current Poisons Standard, Schedule 8.
- (2) Nothing in subregulation (1) requires a manufacturer or importing supplier to label a container with information that is the same, or substantially the same, as any other information required by that subregulation.

#### **Example**

If the Agricultural Labelling Code or the Veterinary Labelling Code requires the inclusion of statements for particular substances that are the same, or substantially the same, as the hazard and precautionary statements required under the GHS for those substances then a manufacturer or importing supplier does not need to include duplicate statements under subregulation (1)(b)(iv) or (v).

- (3) A manufacturer or importing supplier may label a container with the information required by this regulation in languages in addition to English.



- (4) In this regulation—  
**agricultural or veterinary chemical** means an agricultural chemical product or veterinary chemical product within the meaning of the Agricultural and Veterinary Chemicals Code Act 1994 of the Commonwealth;

**Reg. 150 (1)(e)(ii)(A) amended by S.R. No. 23/2024 reg. 6(1).**

**Reg. 150 (1)(e)(ii)(B) amended by S.R. No. 23/2024 reg. 6(2).**

**Agvet Code** has the same meaning as in the Agricultural and Veterinary Chemicals Code Act 1994 of the Commonwealth;

**current Poisons Standard** has the same meaning as in the Therapeutic Goods Act 1989 of the Commonwealth.

### 151 Supplier must ensure container is labelled

A supplier (other than an importing supplier) of a hazardous substance must ensure that the container in which the substance is supplied to a workplace is labelled with the manufacturer's or the importing supplier's label.

Penalty: 100 penalty units for a natural person;  
500 penalty units for a body corporate.

### 152 Disclosure of chemical identity to registered medical practitioner

A manufacturer or an importing supplier of a hazardous substance must immediately disclose the chemical identity of an ingredient of a hazardous substance to a registered medical practitioner if—

- (a) the safety data sheet for the substance, or the label on the container in which the substance is supplied, does not disclose the chemical identity of the ingredient; and
- (b) the registered medical practitioner requests the chemical identity of the ingredient to assist with the management of a patient.

Penalty: 100 penalty units for a natural person;  
500 penalty units for a body corporate.

## Division 3—Duties of employers and self-employed persons

### Subdivision 1—Prohibited hazardous substances

#### 153 Prohibited hazardous substances

154 A person who is an employer or self-employed person must ensure that any hazardous substance listed in Schedule 6 to these Regulations is not used at the person's workplace for any purpose specified in that Schedule.

#### Note

Act compliance—sections 21, 23 and 24 (see regulation 7).

- (2) A person who is an employer or self-employed person must ensure that any hazardous substance determined to be a prohibited substance by the Authority under regulation 6 is not used at the person's workplace for any purpose specified in that determination.

### Notes

1 Act compliance—sections 21, 23 and 24 (see regulation 7).

2 If the Authority makes a determination, it must publish a notice in the Government Gazette and a newspaper circulating generally throughout Victoria and it must make a copy of the determination available for inspection. See regulation 6.

## Subdivision 2—Duties of employers

### 154 Application of Subdivision

- (1) Subject to subregulation (3), this Subdivision applies to—
- (a) substances that have been determined under regulation 143 or under equivalent legislation to be hazardous substances and are supplied to a workplace; and
  - (b) welding fumes, grain dust, wood dust, silica dust (including from grinding or cutting silica-containing materials) and lead dust (including from the hand sanding of lead paint) produced or generated at a workplace; and
  - (c) any other substance, in the circumstances (if any), determined by the Authority under regulation 6(1)(i).

### Note

An employer is not required to comply with Division 2 (Duties of manufacturers and suppliers) in relation to a hazardous substance produced or generated at the employer's workplace unless it is produced or generated through production of a substance for sale or exchange to another workplace. See regulation 141.

- (2) Subject to subregulation (3), this Subdivision does not apply to lead metal, lead alloys or inorganic lead compounds (including lead salts of organic acids) in a prescribed lead process under Part 4.3 (Lead), at a workplace.

### Note

The use of organic lead compounds, including tetraethyl lead, is covered by this Part and not Part 4.3 (Lead)

- (3) Regulations 155 to 160 and 162—
- (a) apply to lead metal, lead alloys or inorganic lead compounds (including lead salts of organic acids) in a prescribed lead process under Part 4.3 (Lead), at a workplace; and
  - (b) do not apply to the substances referred to in subregulation (1)(b).
- (4) In this Subdivision, a reference to a risk associated with a hazardous substance at a workplace includes a risk associated with—
- (a) any consequential product, waste or intermediate product generated at a workplace from a supplied hazardous substance; and
  - (b) any substance referred to in subregulation (1)(b) or (c).

### 155 Safety data sheet to be obtained





An employer must obtain a current safety data sheet on or before the first supply of a hazardous substance to the employer's workplace.

Penalty: 100 penalty units for a natural person;  
500 penalty units for a body corporate.

#### **156 Safety data sheet must be readily accessible**

(1) An employer must ensure that the current safety data sheet for a hazardous substance is readily accessible to any employee who may be exposed to the substance.

Penalty: 100 penalty units for a natural person;  
500 penalty units for a body corporate.

(2) An employer may make the current safety data sheet accessible to employees in appropriate languages in addition to English.

**Reg. 154(3) amended by S.R. No. 71/2018 reg. 6.**

#### **157 Information in safety data sheet must not be altered**

An employer must ensure that the information in a current safety data sheet obtained under regulation 155 is not altered.

Penalty: 100 penalty units for a natural person;  
500 penalty units for a body corporate

#### **158 Containers must be labelled**

(1) An employer must ensure that a container in which a hazardous substance is supplied to the employer's workplace is labelled with the manufacturer's or the importing supplier's label.

Penalty: 100 penalty units for a natural person;

500 penalty units for a body corporate

(2) An employer must ensure that the label on a container in which a hazardous substance is supplied to the employer's workplace—

(a) remains legible; and

(b) is not removed, defaced or altered.

Penalty: 100 penalty units for a natural person;  
500 penalty units for a body corporate

(3) If a hazardous substance is decanted into a container at an employer's workplace, the employer—

(a) must ensure the container is clearly labelled with the product identifier of the substance; or

(b) if it is not reasonably practicable to label the container with the product identifier of the substance, must use another means of identifying the substance.

Penalty: 100 penalty units for a natural person;  
500 penalty units for a body corporate

(4) Subregulation (3) does not apply if a decanted substance is consumed immediately and the container is then immediately—

(a) cleaned to the extent that it is not a risk to health; or

(b) neutralised, cured or chemically deactivated to the extent that any residue is not a risk to health.

**159 How long must a container be labelled?**

If a container that contains a hazardous substance is required to be labelled under regulation 158, the employer must ensure that the container remains labelled until—

- (a) it has been cleaned to the extent that it is not a risk to health; or
- (b) its contents have been neutralised, cured or chemically deactivated to the extent that any residue is not a risk to health.

Penalty: 100 penalty units for a natural person;  
500 penalty units for a body corporate.

**160 Identification of hazardous substances in plant**

An employer must ensure that a hazardous substance contained in a pipe, piping system, process vessel, reactor vessel or any plant that forms part of a manufacturing process is identified to employees who may be exposed to the substance.

**Note**

Act compliance—sections 21 and 23 (see regulation 7).

**161 Identification of containers of waste**

An employer must ensure that containers of waste produced or generated at a workplace from a hazardous substance are identified.

**Notes**

1 Act compliance—sections 21 and 23 (see regulation 7).

2 An employer is not required to comply with Division 2 in relation to the waste unless the waste is produced for sale or exchange for use at another workplace. See regulation 141.

**162 Register of hazardous substances**

- (1) An employer must ensure that a register is prepared and maintained in accordance with subregulation (2) of all hazardous substances supplied to the employer's workplace.  
Penalty: 100 penalty units for a natural person;  
500 penalty units for a body corporate.
- (2) The register must contain—
  - (a) a list of the product identifiers of the hazardous substances supplied to the employer's workplace; and
  - (b) a copy of the safety data sheet for each of the hazardous substances supplied to the employer's workplace.
- (3) An employer must ensure that the register is readily accessible to any employee who may be exposed to a hazardous substance at the employer's workplace.  
Penalty: 100 penalty units for a natural person;  
500 penalty units for a body corporate.
- (4) Subregulation (1) does not apply to an employer who is a retailer or a retail warehouse operator if—
  - (a) the hazardous substance is supplied in a consumer package; and
  - (b) the consumer package is intended for retail sale; and
  - (c) the consumer package is not intended to be opened on the premises of the retailer or retail warehouse operator.

**Note**

This regulation does not exempt an employer who is a retailer or retail warehouse operator from the duty under—

- (a) regulation 155 to obtain a safety data sheet for each hazardous substance used in the employer's workplace or intended for retail sale; or
- (b) subregulation (1) to prepare and maintain a register in relation to each hazardous substance opened on the premises of the employer's workplace.

**163 Control of risk**

- (1) An employer must, so far as is reasonably practicable, eliminate any risk associated with hazardous substances at the employer's workplace.
- (2) If it is not reasonably practicable to eliminate a risk associated with hazardous substances at the employer's workplace, the employer must reduce the risk so far as is reasonably practicable by—
  - (a) substituting the substance with—
    - (i) a substance that is less hazardous; or
    - (ii) a less hazardous form of the substance; or
  - (b) isolating the source of exposure to the hazardous substance; or
  - (c) using engineering controls; or
  - (d) combining any of the risk control measures referred to in paragraphs (a), (b) and (c).

- (3) If the employer has complied with subregulations (1) and (2) so far as is reasonably practicable and a risk associated with a hazardous substance at the workplace remains, the employer must reduce the risk so far as is reasonably practicable by using administrative controls.
- (4) If the employer has complied with subregulations (1), (2) and (3) so far as is reasonably practicable and a risk associated with a hazardous substance at the workplace remains, the employer must reduce the risk so far as is reasonably practicable by providing appropriate personal protective equipment to employees at risk.

**Notes**

1 Act compliance—section 21 (see regulation 7).

2 Part 4 of the Act sets out the duty of the employer to consult with employees, including in respect of making decisions about the measures to be taken to control risks to health or safety. This consultation must involve the health and safety representative (if any). See also regulation 21.

**164 Review of risk control measures**

- (1) An employer must review and, if necessary, revise any measures implemented to control risks associated with hazardous substances at the workplace—
  - (a) before any alteration is made to systems of work that is likely to result in changes to risks associated with hazardous substances at the workplace; or
  - (b) If the employer receives advice from a registered medical practitioner under regulation 169(2)(c)(i) that adverse health effects have been identified by the health monitoring; or
  - (c) after any incident occurs to which Part 5 of the Act applies that involves a hazardous substance at the workplace; or
  - (d) if, for any other reason, the risk control measures do not adequately control the risks; or
  - (e) after receiving a request from a health and safety representative.

**Note**

Act compliance—sections 21 and 23 (see regulation 7).

- (2) A health and safety representative may make a request under subregulation (1)(e) if the health and safety representative believes on reasonable grounds that—
  - (a) any of the circumstances referred to in subregulation (1)(a) to (d) exist; or
  - (b) the employer has failed—
    - (i) to properly review the risk control measures; or
    - (ii) to take account of any of the circumstances referred to in subregulation (1)(a) to (d) in conducting a review of or revising the risk control measures.

**165 Exposure standard must not be exceeded**

An employer must ensure that an employee is not exposed to an atmospheric concentration of a hazardous substance supplied to or generated at the workplace above the exposure standard (if any) for the substance or any of its ingredients.

**Note** Act compliance—section 21 (see regulation 7).



**166 Atmospheric monitoring**

- (1) An employer must ensure that atmospheric monitoring is carried out in relation to a hazardous substance supplied to or generated at the employer's workplace if there is an exposure standard for the hazardous substance or any of its ingredients and—
- (a) there is uncertainty (based on reasonable grounds) as to whether the exposure standard is or may be exceeded; or
  - (b) atmospheric monitoring is necessary to determine whether there is a risk to health.

**Note**

Act compliance—section 22(1) (see regulation 7).

- (2) Subregulation (1) does not apply to a hazardous substance if health monitoring is required for the substance under regulation 169 and the health monitoring includes biological monitoring.

**167 Provision of results of atmospheric monitoring**

An employer must provide the results of any atmospheric monitoring at the employer's workplace as soon as reasonably possible to any employee who has been, or who may be, exposed to the hazardous substance that is the subject of the monitoring.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**168 Records of atmospheric monitoring**

- (1) An employer must keep a record of the results of atmospheric monitoring for—
- (a) a period (not exceeding 30 years) that is determined by the Authority; or
  - (b) 30 years, if no period has been determined by the Authority.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

- (2) In determining a period for the purposes of subregulation (1)(a), the Authority may specify different periods for different hazardous substances or different classes of hazardous substances.

- (3) An employer must ensure that the record of atmospheric monitoring is readily accessible to any employee who has been, or may be, exposed to the hazardous substance that is the subject of the monitoring.

Penalty: 60 penalty units for a natural person;  
300 penalty units for a body corporate.

**169 Health monitoring**

- (1) An employer must ensure that health monitoring is carried out for an employee if—

(a) the employee is exposed to any hazardous substance—

- (i) listed in column 2 of Tables 1 or 2 of Schedule 9; or
- (ii) determined by the Authority to be a hazardous substance for which health monitoring is required; and

- (b) the exposure of the employee to the hazardous substance is reasonably likely to have an adverse effect on the employee's health under the particular conditions of work at the workplace.

**Notes**

1 Act compliance—section 22 (see regulation 7).

2 The purpose of the health monitoring is to monitor the employee's health for the purpose of identifying changes in the employee's health status due to occupational exposure to a hazardous substance.

- (c) the exposure of the employee to the hazardous substance is reasonably likely to have an adverse effect on the employee's health under the particular conditions of work at the workplace.

**Notes**

1 Act compliance—section 22 (see regulation 7).

2 The purpose of the health monitoring is to monitor the employee's health for the purpose of identifying changes in the employee's health status due to occupational exposure to a hazardous substance.

- (2) The employer must ensure—

- (a) that the health monitoring is carried out under the supervision of a registered medical practitioner; and
- (b) that a report of the health monitoring is prepared by the registered medical practitioner and a copy of the report is given to the employer; and
- (c) that the health monitoring report includes (if relevant)—
- (i) any indications of adverse health effects identified by the registered medical practitioner that may be attributed to the hazardous substance; and
  - (ii) any recommendations relating to the need for the employer to take measures to ensure that the employee is not exposed to the substance for a specified period; and
  - (iii) an interpretation of the results of the health monitoring, including a statement of the registered medical practitioner's opinion as to whether the employee should continue working with the hazardous substance.

**Note**

Act compliance—section 22(1) (see regulation 7).

**170 Copy of report to Authority**

If an employer receives recommendations under regulation 169(2)(c)(ii), the employer must give a copy of the health monitoring report to the Authority.

Penalty: 60 penalty units for a natural person;

300 penalty units for a body corporate.



**171 Records of health monitoring**

(1) An employer must keep any health monitoring report given to the employer under regulation 169(2) for—

(a) a period (not exceeding 30 years) that is determined by the Authority; or

(b) if no period has been determined by the Authority, 30 years.

Penalty: 60 penalty units for a natural person;

300 penalty units for a body corporate.

(2) In specifying a period for the purposes of subregulation (1)(a), the Authority may specify different periods for different hazardous substances or different classes of hazardous substances.

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# Work Health and Safety Regulation 2017 (NSW)

## Current version for 1 September 2024

(accessed 6 November 2024 at 13:50)

### Work Health and Safety Regulation 2017 (NSW)

Current version for 1 September 2024 to date (accessed 6 November 2024 at 13:50)

#### Labelling hazardous chemicals—containers

- (1) A person conducting a business or undertaking at a workplace must ensure that a hazardous chemical is correctly labelled in accordance with clause 335 if the hazardous chemical is—
- (a) manufactured at the workplace, or
  - (b) transferred or decanted from its original container at the workplace.
- Maximum penalty—
- (a) for an individual—73 penalty units, or
  - (b) for a body corporate—364 penalty units.

- (1A) Subclause (1) does not apply to a hazardous chemical—
- (a) manufactured at the workplace, or transferred or decanted from its original container at the workplace, before 1 January 2017 that was, at the time it was manufactured, or transferred or decanted from its original container, labelled in accordance with the *National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* as in force at that time, or
  - (b) manufactured at the workplace before 1 January 2023 that was, at the time it was manufactured, labelled in accordance with GHS 3, or
  - (c) transferred or decanted from its original container at the workplace that was—
    - (i) manufactured or imported before 1 January 2023, and
    - (ii) at the time it was manufactured or imported, labelled in accordance with GHS 3.

**Note—**

Clause 338 applies if the chemical is being supplied to another workplace.

- (2) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a container that stores a hazardous chemical is correctly labelled in accordance with clause 335 while the container contains the hazardous chemical.
- Maximum penalty—
- (a) for an individual—73 penalty units, or
  - (b) for a body corporate—364 penalty units.

- (2A) Subclause (2) does not apply to a container—
- (a) supplied before 1 January 2017 that was, at the time it was supplied, labelled in accordance with the *National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* as in force at that time, or
  - (b) supplied before 1 January 2023 that was, at the time it was supplied, labelled in accordance with GHS 3, or
  - (c) manufactured or imported before 1 January 2023 that was, at the time it was manufactured or imported, labelled in accordance with GHS 3.

**Note—**

Clause 338 applies if the container is being supplied to another workplace.





- (3) A person conducting a business or undertaking at a workplace must ensure that a container labelled for a hazardous chemical is used only for the use, handling or storage of the hazardous chemical.  
Maximum penalty—  
(a) for an individual—73 penalty units, or  
(b) for a body corporate—364 penalty units.
- (4) This clause does not apply to a container if—  
(a) the hazardous chemical in the container is used immediately after it is put in the container, and  
(b) the container is thoroughly cleaned immediately after the hazardous chemical is used, handled or stored so that the container is in the condition it would be in if it had never contained the hazardous chemical.

*National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* - This code of practice links in with eh Approved Criteria of Classification (Usually associated with the following images/warnings)

