

Occupational Safety and Health Amendment Regulations (No. 6) 2010

Made by the deputy of the Governor in Executive Council.

1. Citation

These regulations are the *Occupational Safety and Health Amendment Regulations (No. 6) 2010*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

These regulations amend the *Occupational Safety and Health Regulations 1996*.

4. Regulation 5.1 amended

- (1) In regulation 5.1(1) delete the definitions of:

hazardous substance

Material Safety Data Sheet or *MSDS*

risk phrase

safety phrase

- (2) In regulation 5.1(1) insert in alphabetical order:

AC classified hazardous substance means a substance that is determined to be a hazardous substance under regulation 5.3(3);

GHS means the *Globally Harmonised System of Classification and Labelling of Chemicals 3rd Revised Edition* (ISBN 978-92-1-117006-1);

GHS classified hazardous substance means a substance that is determined to be a hazardous substance under regulation 5.3(4);

hazardous substance means a substance that is —

- (a) an AC classified hazardous substance; or
- (b) a GHS classified hazardous substance;

Hazardous Substances Information System means the Hazardous Substances Information System published on the website maintained by Safe Work Australia;

Material Safety Data Sheet or **MSDS**, in relation to a substance, means a document written in English which contains —

- (a) if the substance is an AC classified hazardous substance, the information that is required by the National Code for the substance; or
- (b) if the substance is a GHS classified hazardous substance, the information that is required by the National Code for the substance, except that the hazard classification, hazard statements and precautionary statements set out in the GHS for the substance are to be used instead of the hazard classification, risk phrases and safety phrases required by the National Code,

whether or not the document is in the form required by the National Code;

National Code means the *National Code of Practice for the Preparation of Material Safety Data Sheets* [NOHSC: 2011 (2003)];

risk phrase, in relation to a hazardous substance, means —

- (a) if the substance is an AC classified hazardous substance, a risk phrase that applies to the substance under the *Approved Criteria for Classifying Hazardous Substances* [3rd Edition; NOHSC: 1008 (2004)]; or
- (b) if the substance is a GHS classified hazardous substance, a hazard statement that applies to the substance under the GHS;

safety phrase, in relation to a hazardous substance, means —

- (a) if the substance is an AC classified hazardous substance, a safety phrase that applies to the substance under the *Approved Criteria for Classifying Hazardous Substances* [3rd Edition; NOHSC: 1008 (2004)]; or
- (b) if the substance is a GHS classified hazardous substance, a precautionary statement that applies to the substance under the GHS;

Safe Work Australia means Safe Work Australia established under the *Safe Work Australia Act 2008* (Commonwealth);

- (3) Delete regulation 5.1(3).

5. Regulation 5.3 replaced

Delete regulation 5.3 and insert:

5.3. Determination of whether substance is hazardous substance

- (1) A person who intends to manufacture or import a substance for use at a workplace must, before doing so, determine if the substance is a hazardous substance.

Penalty for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

- (2) A person may use either the AC classification system or the GHS classification system to determine if a substance is a hazardous substance.

- (3) A person who uses the AC classification system must —

(a) determine if the substance is entered as a hazardous substance in the Hazardous Substances Information System; and

(b) if the substance is not entered in the Hazardous Substances Information System, determine in accordance with the *Approved Criteria for Classifying Hazardous Substances* [3rd Edition: NOHSC: 1008(2004)] whether the substance is a hazardous substance.

- (4) A person who uses the GHS classification system must determine if the substance is a hazardous substance in accordance with the criteria set out in the GHS.

6. Regulation 5.4 replaced

Delete regulation 5.4 and insert:

5.4. Commissioner to be notified of new hazardous substances

A person who intends to manufacture or import an AC classified hazardous substance that is not listed as a hazardous substance in the Hazardous Substances Information System must notify the Commissioner before manufacturing or importing the substance.

Penalty for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

7. Regulation 5.6 amended

- (1) In regulation 5.6 delete “A supplier of a hazardous substance” and insert:

(1) A supplier of an AC classified hazardous substance

- (2) At the end of regulation 5.6 insert:

(2) A supplier of a GHS classified hazardous substance for use in a workplace must ensure that any container in which the substance is supplied —

- (a) is labelled in English in accordance with the relevant requirements set out in the GHS; and
- (b) has affixed to it a label setting out —
 - (i) the name of the supplier; and
 - (ii) an Australian address and telephone number for the supplier; and
 - (iii) an emergency Australian telephone number for the supplier.

Penalty for a person who commits an offence as an employee: the regulation 1.15 penalty.

Penalty in any other case: the regulation 1.16 penalty.

8. Regulation 5.7 amended

- (1) In regulation 5.7(1) delete “5.6(c),” and insert:

5.6(1)(c),

- (2) Delete regulation 5.7(2).

9. Regulation 5.9 amended

In regulation 5.9 delete “5.6(c),” and insert:

5.6(1)(c),

10. Regulation 5.12 amended

Delete regulation 5.12(1)(a) and insert:

- (a) if the substance is an AC classified hazardous substance, that any container in which the substance is held in the workplace is labelled in accordance with the relevant requirements of the *National Code of Practice for Labelling of Workplace Substances* [NOHSC: 2012 (1994)]; and
- (ba) if the substance is a GHS classified hazardous substance, is labelled in English in accordance with the relevant requirements set out in the GHS and has affixed to it a label setting out —
 - (i) the name of the supplier; and
 - (ii) an Australian address and telephone number for the supplier; and
 - (iii) an emergency Australian telephone number for the supplier;and

11. Schedule 5.1 amended

- (1) In Schedule 5.1 before the heading “**Type I ingredients**” insert:

Division 1 — Ingredients of substances that are AC classified hazardous substances

- (2) In Schedule 5.1 in the item under the heading “**Type I ingredients**” delete “*type I ingredient*” and insert:

type I ingredient, of an AC classified hazardous substance,

- (3) In Schedule 5.1 in the item under the heading “**Type II ingredients**”:

- (a) delete “*type II ingredient*” and insert:

type II ingredient, of an AC classified hazardous substance,

- (b) after “criteria” insert:

in this Division

- (4) In Schedule 5.1 in the item under the heading “**Type III ingredients**”:

- (a) delete “*type III ingredient*” and insert:

type III ingredient, of an AC classified hazardous substance,

(b) after “criteria” insert:

in this Division

(5) At the end of Schedule 5.1 insert:

Division 2 — Ingredients of GHS classified hazardous substances

Term used: hazard class

In this Division —

hazard class means a hazard class described in the GHS.

Type I ingredients

A *type I ingredient*, of a GHS classified hazardous substance, is an ingredient in a hazard class set out in the Table which is present in a quantity that exceeds the cut-off values/concentration limit set out in the Table for that hazard class.

Table

Hazard class	Cut-off value/concentration limit
Acute toxicity (Categories 1, 2 and 3)	≥ 1.0%
Skin corrosion (Categories 1, 1A, 1B and 1C)	≥ 1.0%
Serious eye damage (Category 1)	≥ 1.0%
Respiratory/skin sensitisation (Categories 1, 1A and 1B)	≥ 0.1%
Germ cell mutagenicity (Categories 1, 1A and 1B)	≥ 0.1%
Germ cell mutagenicity (Category 2)	≥ 1.0%
Carcinogenicity (Categories 1, 1A, 1B and 2)	≥ 0.1%
Reproductive toxicity (Categories 1, 1A, 1B and 2)	≥ 0.1%
Specific target organ toxicity (single exposure) (Categories 1 and 2)	≥ 1.0%

Hazard class	Cut-off value/concentration limit
Specific target organ toxicity (repeated exposure) (Categories 1 and 2)	≥ 1.0%
Aspiration hazard (Category 1)	≥ 10% of Category 1 ingredient(s) and kinematic viscosity ≤ 20.5 mm ² /s at 40°C

Type II ingredients

A *type II ingredient*, of a GHS classified hazardous substance, is an ingredient in a hazard class set out in the Table which is present in a quantity that exceeds the cut-off values/concentration limit set out in the Table for that hazard class.

Table

Hazard class	Cut-off value/concentration limit
Acute toxicity (Category 4)	≥ 1.0%
Skin irritation (Category 2)	≥ 1.0%
Serious eye irritation (Category 2A)	≥ 1.0%
Specific target organ toxicity (single exposure) (Category 3)	≥ 1.0%

Type III ingredients

A *type III ingredient*, of a GHS classified hazardous substance, is an ingredient which does not meet the criteria in this Division for either a type I ingredient or a type II ingredient.

By Command of the deputy of the Governor,

G. MOORE, Clerk of the Executive Council.
