

[LEGAL NOTICE NO. 130]

**HEALTH AND SAFETY AT WORK (CONTROL OF HAZARDOUS SUBSTANCES)
REGULATIONS 2006**

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HEALTH AND SAFETY AT WORK ACT 1996

(No. 4 OF 1996)

HEALTH AND SAFETY AT WORK (CONTROL OF HAZARDOUS SUBSTANCES) REGULATIONS

In exercise of the powers conferred upon me by Section 62 of the Health and Safety at Work Act 1996, and acting on the recommendation of the Chief Executive Officer for Labour, Industrial Relations and Productivity, after consultation with the National Occupational Health and Safety Advisory Board, I make these Regulations-

PART 1 – PRELIMINARY

Citation

1. These Regulations may be cited as the Health and Safety at Work (Control of Hazardous Substances) Regulations, 2006.

Commencement

2. These Regulations shall enter into force on the day appointed by the Minister and published in the *Gazette*.

Application

3. (1) These Regulations apply to all workplaces which the provisions of the Act apply other than workplaces:
 - (a) which have been excepted under Section 3(1) of the Act; and
 - (b) in respect of which the provisions of the Act have not been extended by the Minister responsible for the administration of the Act under Section 3(2).

(2) These Regulations shall apply to all hazardous substances, used and produced in all workplaces and to all persons with potential for exposure to hazardous substances in those workplaces.

(3) There are a limited number of substances, which are exempt from these Regulations where their use is not related to work activity. These are:

 - (a) Food and beverages
 - (b) Therapeutic agents;
 - (c) Cosmetics;
 - (d) Tobacco or products made of tobacco; and
 - (e) Toiletries and toilet products.

(4) Radioactive and infectious substances are exempt from these Regulations.

Definitions

4. (1) In these Regulations, unless the contrary intention appears –

“Act” means the Health and Safety at Work Act 1996;

“ADG Code” means Australian Code for the Transport of Dangerous Goods by Road and Rail (Australian Dangerous Goods Code), Sixth Edition, 1998, as amended from time to time;

“appropriately labelled” means the label is in accordance with approved hazard communication system;

“approved classification system” means a system for the classification of hazardous substances set out in Schedule 9 to these Regulations;

“approved hazard communication system” means a system for the labeling and preparation of MSDS for hazardous substances set out in Schedule 9 to these Regulations;

“biological monitoring,” means the measurement and evaluation of hazardous substances or their metabolites in the body tissues, fluids or exhaled air of an individual;

“CAS No.” means Chemical Abstract Service Number;

“chemical” has the meaning given to that expression in regulation 5;

“chemical name” means the recognized chemical name as used in the scientific and technical texts;

“chemical waste” means any chemical (including a mixture) which is no longer required and is likely to be or is already stored in accumulating deposits, dumped or abandoned;

“consumer package” means a package, which is intended, for retail display and sale whether or not transported and distributed as part of a larger consolidated package consisting of a number of identical consumer packages;

“container” means anything in or by which hazardous substances and other chemicals are or have been wholly (or partly) cased, covered, enclosed, contained or packed, whether such a container is empty, or partially full or full; but does not include tanks and bulk storage containers, as defined in the ADG Code;

“decant” means transferring the substance from one container to another and “decanted” shall be construed accordingly;

“disposal” in relation to a chemical, includes disposal of waste resulting from the manufacture or use of the chemical;

“emergency services” include:

- (a) Health Inspectorate of the Ministry of Health;
- (b) Fiji Police Force;
- (c) National Fire Authority; and
- (d) organizations with functional responsibility for emergency response;;

“environment” includes biophysical environment or all aspects of the surroundings of humans, whether affecting them as individuals or in social groupings;

“environmental effect” in relation to an industrial chemical, means the effect on the environment during importation, manufacture, handling, storage, use or disposal of the chemical;

“export” has the meaning assigned to it in section 2 of the Customs Act 1978;

“Fiji Chemical Inventory” means the Inventory referred to in regulation 31;

“foreign assessment scheme” means a chemical’s notification and assessment scheme operating in a foreign country;

“fumigation” means an operation in which a substance is released into the atmosphere so as to form a gas to control or kill pests or other undesirable organisms and “fumigate” and “fumigant” shall be construed accordingly;

“generic name” means a name applied to describe a category or group of chemicals, for example, azo dyes and halogenated aromatic amines;

“handling” in relation to a chemical, means the action of dealing with chemicals, including transportation;

“hazardous substance” means a substance: -

- (a) that is determined to be hazardous substance on the basis of an approved classification system; or
- (b) listed on the ADG Code;

“health effect” in relation to an industrial chemical, means the effect on occupational health and safety or on public health that could result from the importation, manufacture, handling, storage, use or disposal, of the chemical;

“health surveillance” means the monitoring of individuals to identify changes (if any) in their health due to exposure to a hazardous substance, including biological monitoring but does not include monitoring of atmospheric contaminants;

“import” and “importer” have the meaning assigned to each of those expressions respectively by section 2 of the Customs Act 1978;

“information” in relation to an industrial chemical, includes:

- (a) information about the result of a test relating to the chemical;
- (b) other information about such a test; and
- (c) such other information as are specified in the Regulations

“ingredient” means any component of a substance (including impurities), in a mixture or combination;

“inventory” means the Fiji Chemical Inventory established under regulation 31;

“may” means that a requirement is optional;

“manufacturer” in relation to an industrial chemical, means a person who manufactures or proposes to manufacture the chemical in Fiji and includes formulators;

“Material Safety Data Sheet” in relation to a chemical or a product or substance containing a chemical, means a written statement from the supplier that:

- (a) clearly identifies the substance,
- (b) sets out its recommended uses,
- (c) describes its chemical and physical properties;
- (d) discloses information relating to each ingredient to the extent prescribed by regulation 10 (1), (2), (3), and (4);
- (e) sets out any relevant health hazard information;
- (f) sets out information concerning the precautions to be followed in relation to its safe use and handling;
- (g) sets procedures to be adopted in the event of any emergency involving the chemical, product or substance;
- (h) indicates the compatible container / package for its storage;
- (i) prescribes cleaning methods of the containers used for the storage of the chemical or a product or substance; and
- (j) discloses information relating to its environmental effects.

prepared in accordance with an approved hazard communication system;

“monitoring” means to survey regularly all measures, which are used to control hazardous substances in the workplace. This includes the monitoring of atmospheric contaminants, but does not include biological monitoring;

“MSDS” means Material Safety Data Sheet;

“must” means the provision is to be applied as far as is practicable, in the interest of ensuring worker health and safety;

“new industrial chemical” means any industrial chemical not listed in the Fiji Chemical Inventory;

“NOHSAB” means the National Occupational Health and Safety Advisory Board;

“OHS” means Occupational Health and Safety;

“pest” means any animal, plant, insect, or other living things that is troublesome or destructive;

“pesticide” means any substance used for the destruction or control of pests includes chemicals for agricultural use but excludes organisms;

“priority existing chemical” means an industrial chemical in respect of which a declaration under Section 54 of the Act, is in force;

“product name” means the brand name, trade name or code name or code number specified by a supplier;

“purchaser” means a person or employer who acquires an article or substance by the payment of money or its equivalent;

“record” means a collection of information in a permanent form. It may take one of many forms, for example, a written report or a computerized database. For the purpose of these Regulations, records include, assessment reports, results of monitoring, evidence of consultation, documentation of induction and training programs and results of health surveillance;

“registered medical practitioner” means a person registered in Part II of the medical register maintained by the Fiji Medical Council under the Medical and Dental Practitioners Act, and, in relation to the case of a claimant residing outside Fiji, a person who is so registered or, with the consent of the Board, a person who is not so registered but who is, in the opinion of the Board, qualified to be so registered;

“register” means a listing of all hazardous substances, which are used or produced in the workplace and the available MSDS for the hazardous substances, as required by these Regulations;

“relevant statutory authorities” includes Inspectorate or those authorities whose functional responsibilities extend to occupational health and safety and includes the National Fire Authority;

“retail warehouse operator” means a person who operates a warehouse where unopened packaged goods intended for retail sale are held on the premises;

“retail sale” means sale of products, which:

- (a) because of their packing and in particular, the presence of appropriate indications are clearly intended for sale directly to users without repacking; and
- (b) will not be opened on the retailer’s or retail warehouse operators’ premises; and
- (c) are contained in packages that hold less than 25 kilograms or 20 litres;

“retailer” means a person or business that sells articles and substances to members of the public who themselves are not engaged in any further resale of that article or substance;

“shall” means a provision is mandatory;

“sufficiently qualified person” means a person who acquires appropriate skills and experience in a particular field of work;

“supplier” means an importer, manufacturer, formulator, wholesaler or distributor of workplace substances, but excludes a retailer;

“Type I Ingredient” means an ingredient as described in Schedule 1 to these Regulations;

“Type II Ingredient” means an ingredient as described in Schedule 1 to these Regulations;

“Type III Ingredient” means an ingredient as described in Schedule 1 to these Regulations;

“UN No.” means United Nations Number

“use” includes proposed use, and means any work activity which may expose a worker to a substance including:

- (a) the production of substance;
- (b) the handling of substance;
- (c) the storage of substance;
- (d) the transport of substance;
- (e) the disposal and treatment of waste substance;
- (f) the release of substance resulting from work activities;
- (g) the maintenance, repair and cleaning of equipment and containers for substance; but does not include substances carried in compliance with the ADG Code or any other relevant statutory legislation.

- (2) For the purpose of these Regulations references to amendment of an adopted code, standards, rule, specification or other similar document, by whatever name called, means an amendment in respect of which the Minister pursuant to Section 62(3)(c) of the Act has published in the *Gazette* a notice that the particular amendment is to be incorporated in the Regulations.
- (3) If there is an inconsistency between provisions of these Regulations and a document referred to in these Regulations, the provisions of these Regulations prevail over the document to the extent of the inconsistency.
- (4) A reference in these Regulations to an exposure standard for an atmospheric contaminant is a reference to the relevant exposure standard prescribed by, and measured in accordance with, the current Exposure Standards for Atmospheric Contaminants in the Occupational Environment [NOHSC: 1003(1995)] adopted by the National Occupational Health and Safety Commission of Australia.

Meaning of chemical

5. (1) In these Regulations, unless the contrary intention appears:
“chemical” includes:

- (a) a chemical element, including a chemical element contained in a mixture; or
- (b) a compound or complex of a chemical element, including such a compound; or complex contained in a mixture; or
- (c) a UVCB substance; or
- (d) a naturally-occurring chemical;

but does not include:

- (i) an article; or
- (ii) a radioactive chemical; or
- (iii) a mixture.

(2) In this section:

“article” means an object that:

- (a) is manufactured for use for a particular purpose, being a purpose that requires that the object have a particular shape, surface or design; and
- (b) is formed to that shape, surface or design during manufacture; and
- (c) undergoes no change of chemical composition and physical state when used for that purpose except as an intrinsic aspect of that use;

but does not include a particle or a fluid;

“mixture” means a physical combination of chemicals resulting from deliberate mixing of those chemicals or from a chemical reaction, but does not include a UVCB substance;

“radioactive chemical” means a chemical having a specific activity greater than 35 becquerels per gram;

“UVCB substance” means:

- (a) a chemical of unknown or variable composition; or
- (b) a complex product of a chemical reaction; or
- (c) biological material, other than a whole animal or a whole plant.

Meaning of industrial chemical

6. In these Regulations, unless the contrary intention appears:

“industrial chemical” means a chemical:

- (a) that is a hazardous substance; and
- (b) has an industrial use;

“industrial use” in relation to a chemical means a use in respect of which the worker in a work activity is likely to be exposed to a hazardous substance through:

- (a) inhalation; or
- (b) absorption; or
- (c) ingestion,

or a combination of any two or more of paragraphs (a) to (c).

PART 2 - SUPPLIERS' DUTIES

Classification of hazardous substances

7. (1) A manufacturer, importer or supplier of a substance must, before first supplying the substance for use at workplace, determine whether the substance is a hazardous substance in accordance with an approved classification system.

(2) Where a manufacturer or importer determines that a substance, meets approved classification system, and that substance is not already classified as a hazardous substance, the manufacturer or importer shall notify the Chief Health and Safety Inspector of that determination.

(3) Sub-regulation (2) does not apply to substances, which are composite materials, mixtures or formulations.

Safe Containers

8. (1) A supplier shall ensure that hazardous substances are supplied and stored in safe containers so that hazardous substances cannot escape.

(2) The material of the container shall be durable against the reaction of the hazardous substance and if the contents of the container are not emptied at one time, the container must be fitted with tightly re-closable lids or fastenings.

Provision of information

9. (1) A supplier shall give notification of new industrial chemical in accordance with regulation 33 and obtain approval from the Chief Health and Safety Inspector prior to manufacture, or import into Fiji, of that industrial chemical into Fiji.

(2) In respect of MSDS, manufacturers and importers of hazardous substance shall:

- (a) before first supplying the substance for use at work produce MSDS for all hazardous substances which they supply;
- (b) review and revise MSDS to keep them up to date, and in any case at intervals not exceeding five years from the date of last issue of the MSDS; and
- (c) provide a current MSDS to the Chief Health and Safety Inspector.

(3) Suppliers shall ensure, in relation to any hazardous substance supplied for use at work, that:

- (a) a current MSDS is provided on the first occasion that the hazardous substance is supplied to a person who purchases the substance from the supplier;
- (b) information on the name, address and telephone numbers (including an emergency number), of the supplier including the Fiji address, is provided; and
- (c) a current MSDS is provided on request.

(4) An MSDS prepared under this regulation must comply with an approved hazard communication system on preparing MSDS and shall:

- (a) contain in relation to the hazardous substance to which it relates, all the information specified in regulation 4.
- (b) be in English and contain:
 - (i) Standard International (SI) unit measures;
 - (ii) Exposure Standard (if any) for the hazardous substance.

(5) Suppliers are exempt from sub-regulation 9(2) in relation to hazardous substances, which are intended for retail sale.

(6) Suppliers shall ensure that any container, which holds a hazardous substance, supplied for use at a workplace is appropriately labelled.

(7) Without limiting the operation of sub-regulation (6), a supplier must ensure that a label:

- (a) clearly identifies the hazardous substance;
- (b) provides details of the supplier,
- (c) discloses information relating to each ingredient to the extent prescribed by regulation 10 (5);
- (d) provides basic health and safety information about the substance;
- (e) contains the same chemical name or common name used to identify the chemical on MSDS; and
- (f) is replaced with a reviewed and revised label, whenever new relevant safety and health information becomes available.

(8) A supplier shall provide to an employer on request:

- (a) relevant information from assessment reports prescribed by regulation 35; and
- (b) any other relevant information in addition to that contained in the MSDS, which will assist in the safe use of the hazardous substance.

Disclosure of ingredients of hazardous substances

10. (1) The manufacturer or importer shall disclose on the MSDS for a hazardous substance the chemical name of each Type I ingredient as provided at Schedule 1.

(2) The manufacturer or importer shall disclose on the MSDS for a hazardous substance the chemical name of each Type II ingredient as provided at Schedule 1, except that a generic name may be used if the identity of a Type II ingredient is commercially confidential.

(3) The manufacturer or importer shall disclose on the MSDS for a hazardous substance, the chemical name, or alternatively a generic name may be used, for each Type III ingredient as provided at Schedule 1.

(4) Where a generic name does not provide sufficient commercial protection for a Type III ingredient as provided at Schedule 1 which is not a hazardous substance and does not have known synergistic effects, the manufacturer or importer may use the term 'Other ingredients determined not to be hazardous' in place of the chemical or generic name.

(5) The supplier shall, in accordance with an approved hazard communication system, disclose on the label of a hazardous substance the following information in relation to the ingredients contained in that substance:

- (a) For each Type I ingredient-- its chemical name
- (b) For each Type II ingredient: -
 - (i) Its chemical name; or
 - (ii) If the identity of the ingredient is commercially confidential- its generic name.

(6) Where a generic name is used to identify a Type II ingredient in accordance with sub-regulations (2) or (5)(b) of this regulation, the manufacturer or importer shall notify the Chief Health and Safety Inspector, using the form in Part 1 of Schedule 2.

Disclosure of commercially confidential information

11. (1) Where the chemical name of an ingredient has not been disclosed on the MSDS or the label in accordance with sub- regulations 10(2), (3) or (5) b, the manufacturer or importer shall disclose the chemical identity of the ingredient to the Chief Health and Safety Inspector.

(2) The Chief Health and Safety Inspector shall provide an undertaking in the prescribed form as set out in Part 2 of Schedule 2, that the information will only be used for the purpose for which it was provided.

Emergency disclosure of information to medical practitioners

12. (1) The chemical name of an ingredient shall be disclosed forthwith to a registered medical practitioner who determines that a medical emergency exists and requests the information only for the purposes of providing proper emergency or first aid treatment.

(2) The medical practitioner may provide to the manufacturer or importer as soon as practicable, a written statement of the need to obtain the information.

Non-emergency disclosure of information to other persons

13. (1) An employer, worker, health and safety representative, health and safety committee or persons authorized by them, as well as relevant statutory authorities, may request a manufacturer or importer to disclose the chemical name of an ingredient for the purposes of protecting the health of any person who might be exposed to the hazardous substance through its use at work.

(2) A request under sub-regulation (1) shall be made in writing and shall provide details of the reason why the information is needed.

(3) A manufacturer or importer shall respond in writing to a request under sub-regulation (1) within 30 days after receipt of the request.

(4) In responding to the request, the manufacturer or importer shall:

- (a) disclose the chemical name of the ingredient; or
- (b) if the manufacturer or importer is not satisfied with the need to disclose the chemical name, provide:
 - (i) specific reasons, supported by sufficient evidence, for refusal of the request, and
 - (ii) alternative information that will protect the health of any person who might be exposed to the hazardous substance through its use at work, without revealing the chemical name.

(5) A manufacturer or importer may make it a condition of the provision of any information on request under sub-regulations 12(1) and 13(1) that the person making the request signs a written undertaking that he or she will only use the information for the purpose for which it is provided.

PART 3 - EMPLOYERS DUTIES*Material Safety Data Sheets*

14. (1) An employer shall:

- (a) obtain an MSDS before or on the first supply of hazardous substance to his or her workplace;
- (b) ensure that MSDS provided by the supplier are available for all hazardous substances used in the workplace and are readily accessible in English, or any other appropriate language, or both to any worker who is likely to be exposed to those substances; and
- (c) ensure that an MSDS provided by the supplier is not altered.

(2) Retailers and retail warehouse operators are exempt from sub-regulations (1)(a) and (b) of this regulation for hazardous substances, which are intended for retail sale.

Safe Containers

15. An employer shall ensure that:

- (a) hazardous substances are stored in safe containers so that the hazardous substances cannot escape;
- (b) the container is made of material which is durable against the reaction of the hazardous substance; and

- (c) if the contents of the container are not emptied at one time, the container is fitted with tightly re-closable lids or fastenings.

Labels

16. (1) An employer shall ensure that:

- (a) any container which holds hazardous substances and other chemicals used at work, including a container delivered or produced within the workplace, is appropriately labelled in appropriate languages; and
- (b) the label remains in the purposeful state and no person removes, defaces, modifies or alters a correct label of a hazardous substance used at work.

(2) Where a hazardous substance is decanted and is not used immediately, the employer shall ensure that the container into which the substance is decanted is labelled with the information as outlined in the sub-regulation (1) of this regulation.

(3) Without limiting the operation of sub-regulation (2) of this regulation, an employer shall ensure that a label:

- (a) clearly identifies the hazardous substance; and
- (b) provides appropriate health and safety information about the substance.

(4) Where a hazardous substance is decanted and is used immediately and the container into which the substance has been decanted is cleaned so that it no longer contains the substance, the container does not require labelling.

(5) Hazardous substance containers shall remain correctly labelled until they are cleaned so that they no longer contain any hazardous substance that was placed in them.

Hazardous substance register

17. (1) An employer shall ensure that:

- (a) a register is kept and maintained for all hazardous substances used or produced at the workplace;
- (b) the register contains, as a minimum, a list of names, CAS No. or UN No. or both, of all hazardous substances used or produced at the workplace, reference to available MSDS, notation on assessment in accordance with regulation 23(5) and records of chemical related accidents and injuries; and
- (c) the register is readily accessible to all workers or other persons at the workplace who are likely to be exposed to hazardous substances.

(2) In their capacity as 'employers', retailers and retail warehouse operators are exempt from the provisions of sub-regulations (1) (a), (b) and (c) for hazardous substances, which are intended for retail sale.

Information to Chief Health and Safety Inspector and emergency services

18. (1) Employers shall ensure that all relevant records on workplace hazardous substances, which are required under these Regulations, are readily accessible to the Chief Health and Safety Inspector, the National Fire Authority and other emergency services.

(2) Without prejudice to sub-regulation (1) of this regulation, the employer shall ensure that all industrial chemicals used in his/her workplace are listed on the Fiji Chemical Inventory in accordance with regulation **32**.

Prohibition of scheduled hazardous substances for specified purposes

19. An employer shall ensure that any hazardous substance listed in the first column of Schedule 3 to these Regulations is not used for any purpose specified in the second column to that Schedule.

Worker induction, training and information

- 20.** (1) Employers shall provide induction and on-going training to all workers who are likely to be exposed to hazardous substance at the employers' workplace.
- (2) The induction and on-going training provided shall be commensurate with any risk identified by the assessment process referred to in regulation **23**.
- (3) Induction and on-going training shall be provided in a manner appropriate to the workers in the workplace.
- (4) An employer shall keep record of any induction and training carried out under these Regulations.
- (5) An employer shall inform the workers of the hazards associated with exposure to chemicals used at the workplace as well as instruct the workers on the use of the information provided on labels and MSDS.
- (6) An employer shall use MSDS, along with the information specific to the workplace, as a basis for the preparation of instruction to workers, which should be written if appropriate.

General OHS training in relation to hazardous substances

- 21.** (1) An employer shall, in order to ensure that all workers who are likely to be exposed to hazardous substances at the workplace are able to carry out their functions safely and without risk to health, provide such workers with adequate and appropriate training in relation to the use of such substances.
- (2) For the purpose of sub-regulation (1), the employer shall provide training for persons employed at that workplace including:
- (a) workers without managerial or supervisory responsibilities;
 - (b) workers with supervisory responsibilities; and
 - (c) persons with managerial responsibilities either as a worker or as a owner of a business.
- (3) The training shall be provided as soon as practicable and shall consist of:
- (a) classification of hazardous substances by suppliers;
 - (b) disclosure of hazardous substances information ;
 - (c) provision of MSDS and labels;
 - (d) workers induction, training and information;
 - (e) consultation with workers;
 - (f) inspection – hazard identification, risk assessment and control including emergency response procedures;
 - (g) monitoring and health surveillance;
 - (h) worker's duties; and
 - (i) applicable health and safety legislations.
- (4) The employer shall provide training to the workers without loss of pay.

Consultation

- 22.** An employer shall consult the workers who are likely to be exposed to risk arising from hazardous substance used at work and with the worker health and safety representative regarding:

- (a) the requirements under these Regulations concerning hazard identification, risk assessment, risk control, monitoring, training, health surveillance and provision of information; and
- (b) any proposed changes to the system of work associated with hazardous substance that may affect health and safety.

Hazard identification and risk assessment

23. (1) An employer shall:

- (a) identify all hazardous substances that are used or produced at the employer's workplace; and
- (b) ensure that a suitable and sufficient assessment is made of the risks to health created by work that involves possible exposure to any of those hazardous substances.

(2) An assessment carried out under sub-regulation (1) (b) of this regulation shall include, for each hazardous substance to which the work involves possible exposure:

- (a) A review of the following information:
 - (i) availability of label on opened or unopened package;
 - (ii) the relevant MSDS or other equivalent information (where MSDS cannot be practicably obtained during any transitional period referred to in regulation 36) for each hazardous substance used or produced at the workplace;
 - (iii) any other information about the substances that is available to the employer; and
- (b) The identification of any risk to health created by the work relative to each of the hazardous substance used or produced at the workplace.

(3) The assessment to be carried out by a retailer or retail warehouse operator need not include a review of the matters referred to in substances referred to in sub-regulations (2) (a) (ii) and (iii) of this regulation in respect of any hazardous substance which is intended for retail sale.

(4) An assessment may relate to more than one work activity, more than one workplace and more than one hazardous substances, so long as it takes account of the particular circumstances of each work activity, each workplace and each hazardous substance to which it relates.

(5) If, after complying with sub-regulation (2), an employer concludes that no risk to health is created by the work, the employer must ensure that a notation is made in the register maintained under regulation 17 to indicate that each stage of the assessment process has been duly completed.

(6) If an assessment identifies a risk created by the work, the employer must ensure:

- (a) that the steps necessary to comply with regulations 20, 21, 24, 25 and 26 are taken; and
- (b) that a report is prepared on the assessment and a record is kept for the purpose of these Regulations.

(7) The assessment must be revised:

- (a) whenever there is evidence to indicate that the assessment is no longer valid; or
- (b) whenever the employer is advised on any necessary preventive or remedial action as a result of health surveillance undertaken under regulation 27; or
- (c) whenever there is a significant change in the work to which the assessment relates; or
- (d) for its validity, at intervals not exceeding five years.

(8) The employer shall ensure that any report prepared under this regulation is readily accessible to any worker or other person working at the employer's workplace who is likely to be exposed to a hazardous substance to which the report relates.

Employer to identify hazardous substances in enclosed systems

24. An employer must ensure that the identity of any hazardous substance contained in an enclosed system at the employer's workplace (such as a pipe or piping system, or a process or reactor vessel) is notified to a person who is likely to be exposed to the substance.

Risk control

25. (1) An employer must, on the basis of an assessment under regulation 23 ensure that exposure to any hazardous substance is prevented or, where that is not practicable, adequately controlled so as to minimize the risks to health caused by that substance.

(2) In any event an employer must ensure that no individual is exposed to an airborne concentration of a hazardous substance in his or her breathing zone:

- (a) at a level above the exposure standard appropriate to the airborne hazardous substances; and
- (b) for the period of time relevant to the exposure standard of the airborne hazardous substance.

(3) In so far as is practicable, the prevention or adequate control of any exposure of an individual to a hazardous substance shall be achieved by appropriate measures other than the provisions of personal protective equipment.

(4) Without limiting the application of appropriate measures in sub-regulation (3), the following control strategies shall be used with preference given to the top of the list to eliminate or minimize risk followed by next strategy where recourse to the higher strategy is not practicable or does not suffice:

- (a) the choice of chemicals that eliminate or minimize the risk;
- (b) the choice of technology that eliminates or minimizes the risk;
- (c) the use of adequate engineering control measures;
- (d) the adoption of working systems and practices that eliminate or minimize the risk;
- (e) the adoption of adequate occupational hygiene measures.

(5) If measures undertaken in accordance with sub-regulations (3) and (4) do not prevent or provide adequate control of an individual's exposure to a hazardous substances, the employer shall make provision for, and proper maintenance of, personal protective equipment and clothing at no cost to the worker, and the implementation of measures to ensure their use.

(6) An employer shall ensure that any control measure provided shall be maintained in an efficient working order and in good state of repair and, in the case of personal protective equipment, in a clean and effective condition.

(7) Where engineering controls are provided to meet the requirements of these Regulations, the employer shall ensure that thorough examination and testing of those engineering controls by sufficiently qualified persons are carried out as follows: -

- (a) in the case of a local exhaust ventilation plant, other than a ventilation plant specified in paragraph (b), at least once in every 12 months period;
- (b) in the case of a local exhaust ventilation plant used in conjunction with a process specified in column 1 of Schedule 4 to these Regulations, at no more than the interval specified in column 2 of that Schedule; and

- (c) in any other case, at such longer period as may be specified by the Chief Health and Safety Inspector.

(8) Where respiratory protective equipment (other than disposable respiratory protective equipment) is provided to meet the requirements of these Regulations, the employer shall ensure that at suitable intervals thorough examinations by sufficiently qualified persons and where appropriate, tests of that equipment are carried out.

(9) An employer shall keep a suitable record of the examination and tests carried out in pursuance of sub-regulation (7) and (8) or any repairs carried out as result of those examination and tests, and that record or suitable summary thereof shall be kept available for at least five years from the date on which it was made.

(10) The employer shall make arrangements to eliminate or minimize chemical wastes as far as practicable.

(11) The employer shall ensure that chemical wastes and containers which have been emptied but which may contain residues of hazardous substances, are handled and disposed off in a manner which eliminates or minimizes the risk to health and safety and to the environment, in accordance with the provisions of these Regulations and any other national environmental laws.

(12) Without limiting the application of sub regulation (11), all employers shall notify the Chief Health and Safety Inspector of the type of chemical wastes generated at his/her workplace and specify the treatment or disposal methods.

(13) The employer shall make arrangements to deal with emergencies that may arise through accident, incident or any loss of control measure that has been provided.

(14) Without limiting the generality of sub regulation (13), the emergency procedures shall be reviewed and revised at intervals specified by the Chief Health and Safety Inspector.

Monitoring

26. – (1) If the risk assessment indicates that the monitoring is needed-

(a) an employer shall;

- (i) undertake appropriate monitoring at the workplace; and
- (ii) ensure that the results of monitoring are recorded.

(b) an employer shall ensure that –

- (i) any worker or other person exposed to hazardous substance at the workplace is provided with the result of the workplace monitoring; and
- (ii) the result and records of monitoring are readily accessible to OHS Inspectors, registered medical practitioners and workers legal representatives.

Health surveillance

27. (1) An employer shall provide health surveillance for each worker who has been identified in the assessment process, as being exposed to a hazardous substance where:

- (a) there is a significant risk to the health of the worker from one of the hazardous substances listed at Schedule 5 to these Regulations; or

- (b) the exposure of the worker to a hazardous substance is such that:
 - (i) an identifiable disease or health effect may be related to the exposure including the chemical diseases in the Health and Safety At Work (Administration) Regulations 1997 Fifth schedule “List of Occupational Diseases”;
 - (ii) there is reasonable likelihood that the disease or health effect may occur under the particular conditions of work; and
 - (iii) there is available an effective technique for detecting indications of the disease or other health effect; or
- (c) there is a valid biological monitoring procedure available and a reasonable likelihood that current accepted values may be exceeded.

(2) The employer shall ensure that health surveillance is performed under the supervision of a registered medical practitioner; who is adequately trained in the requisite training or medical examination for the hazardous substances.

(3) The selection of a registered medical practitioner to supervise health surveillance shall be undertaken by the employer following consultation with the relevant workers.

(4) The employer must ensure that if there is significant risk to health of a worker from substance referred in sub-regulation (1), the health surveillance includes but is not limited to, the carrying out of the procedures specified in Schedule 5 or recommended procedure by the registered medical practitioner, in relation to that substance.

(5) Health surveillance shall be at the expense of the employer.

(6) Where the worker is undergoing health surveillance in accordance with sub-regulation (1), the registered medical practitioner shall ensure, as soon as practicable, that:

- (a) the worker is notified of the results of his or her health surveillance, together with any necessary explanation of these results; and
- (b) the employer is notified of the general outcome of health surveillance and is advised on the need for any preventative or remedial action; and
- (c) the Chief Health and Safety Inspector is notified of any prescribed adverse health effect that has been detected which is consistent with exposure to the hazardous substance in question.

(7) The employer shall ensure that health surveillance results obtained for the purposes of these Regulations are retained as confidential records.

(8) Where the employer has been advised by the registered medical practitioner under sub-regulation (6) (b), on the need for remedial action, the employer shall, as soon as practicable:

- (a) no longer engage the worker or any other worker in any work in which the worker is exposed to the hazardous substance;
- (b) revise the assessments of the worker’s exposure to hazardous substances; and
- (c) implement such control measures as are necessary to comply with the requirements of these Regulations and the Act.

(9) When the registered medical practitioner ceases his or her practice, all medical records in his or her possession obtained as a result of health surveillance may be offered to the Chief Health and Safety Inspector.

(10) Where a registered medical practitioner examines or treats a patient for other purposes, records of those other purposes and the records obtained as a result of health surveillance shall be kept clearly identifiable.

(11) A written consent of the worker shall be obtained before the medical records of health surveillance, which identify that person, are provided to a third party not covered by professional confidentiality.

Record keeping

- 28.** (1) An employer shall maintain, as a record, in a suitable form:
- (a) assessment reports indicating a need for monitoring or health surveillance or both, and the results of any monitoring or health surveillance or both for at least 30 years from the date of the last entry in them;
 - (b) assessment reports not indicating a need for monitoring, or health surveillance, or both, for at least five years from the date of the last entry in them; and
 - (c) records of instruction, training and dispatch of information required under these Regulations for at least five years from the date of the last entry in them.
- (2) Where an employer who holds records in accordance with sub-regulation (1) (a), ceases to trade or winds up business, the employer shall provide those records to the Chief Health and Safety Inspector.

Fumigations

- 29.** (1) This regulation shall apply to fumigation in which the fumigant used or intended to be used is hydrogen cyanide, ethylene oxide, phosphine or methyl bromide, except that this regulation shall not apply to fumigation using the fumigant specified in column 1 of Schedule 6 to these Regulations when the nature of the fumigation is that specified in the corresponding entry in column 2 of that Schedule.
- (2) An employer shall not undertake any fumigation to which this regulation applies unless he or she has-
- (a) notified the persons specified in Part I of Schedule 7 to these Regulations, of his or her intention to undertake the fumigation;
 - (b) provided to those persons the information specified in Part II of that Schedule, at least 24 hours in advance, or such shorter time in advance, as the persons required to be notified may agree; and
 - (c) ensured that not less than two (2) fumigators undertake any one fumigation and that one of those fumigator is a fumigator in charge and competent in the use of that fumigant.
- (3) Pursuant to sub regulation (2), the notified persons shall immediately acknowledge receipt of notification to fumigate.
- (4) An employer who undertakes a fumigation to which this regulation applies shall ensure that, before the fumigant is released, suitable warning notices have been placed at all points of reasonable access to the fumigation sites or to those parts of the fumigation sites in which the fumigation is to be carried out and that after the full fumigation has been completed and the fumigation sites are declared safe to enter by the fumigator by means of a written gas clearance advice, those warning notices are removed.
- (5) An employer who undertakes a fumigation to which this regulation applies shall ensure that sufficient notice is given to the workers:
- (a) before the fumigant is released; and

- (b) after the fumigation has been completed; and
- (c) on when it is safe to enter the fumigation site,

before warning notices are removed.

PART 4 – WORKERS’ DUTIES

Workers’ duties

30. (1) Workers shall comply, to the extent that they are capable, with all activities carried out in accordance with the provisions of these Regulations.

(2) Without prejudice to the generality of sub-regulation (1), every worker shall make full and proper use of any control measure, personal protective equipment or other thing or facility provided pursuant to these Regulations and shall take all reasonable steps to ensure, where applicable, it is returned after use to any accommodation provided for it.

(3) Workers shall report promptly to their employer any matters of which they are aware that may affect the employer’s compliance with the provisions of these Regulations and the Act.

(4) Workers shall take all reasonable steps to eliminate or minimize risk to themselves and to others from the use of chemicals at the workplace.

PART 5 - ASSESSMENT AND CONTROL OF CHEMICALS

Fiji Chemical Inventory

31. (1) The Chief Health and Safety Inspector shall, in such form and by such means (including electronic means) as he considers appropriate, establish and maintain a Fiji Chemical Inventory for all industrial chemicals.

(2) The Inventory shall be kept at such place as the Chief Health and Safety Inspector directs.

(3) The Inventory shall contain:

- (a) the chemical name of the industrial chemical;
- (b) molecular formula and molecular weight;
- (c) Material Safety Data Sheet in the English language;
- (d) United Nations (UN) Number;
- (e) a brief summary of the chemical’s health effects and environmental effects;
- (f) known impurities that may be harmful to human health; and
- (g) statistics of chemical related accidents and injuries.

(4) If an industrial chemical is included in the Inventory, the chemical may be imported into Fiji, or manufactured in Fiji, without obtaining an assessment report.

(5) The Chief Health and Safety Inspector may make arrangements with relevant statutory authorities and emergency services to access information from the Inventory.

Registration of industrial chemicals, etc.

- 32.** (1) The employer or person in control of a workplace shall, not later than 6 months after the date on which these Regulations come into operation and thereafter, not later than 31 March in each year, register with the Chief Health and Safety Inspector, all industrial chemicals used in that workplace.
- (2) For the purposes of these Regulations, the Minister on receiving a recommendation from the Chief Health and Safety Inspector:
- (a) may approve import, export, manufacture, use and disposal of any prohibited or restricted chemical under the Act; and
 - (b) shall use forms OHS CF4 and OHS CF5 in Schedule 8 to these Regulations, for approval of import and export of prohibited or restricted chemicals respectively.
- (3) Applications made for the purposes of this regulation shall be made using the following forms:
- (a) form OHS CF1 provided in Schedule 8, for the registration of industrial chemicals with current MSDS attached; and
 - (b) form OHS CF3 provided in Schedule 8, for approval to import, export, manufacture, use and dispose of any restricted chemicals under the Act.
- (4) Application for registration under sub regulation (3) of this regulation shall be accompanied by a fee of FJ\$12.00.

Notification of new industrial chemicals

- 33.** (1) A supplier of a chemical, which is not listed on the Inventory, shall notify the Chief Health and Safety Inspector of that chemical and provide the information specified in sub-regulation (2).
- (2) The information to be provided for notification of a new industrial chemical shall be:
- (a) the chemical name of the industrial chemical;
 - (b) molecular formula and molecular weight;
 - (c) Material Safety Data Sheet in the English language;
 - (d) United Nations Number;
 - (e) a brief summary of the chemical's health effects and environmental effects;
 - (f) known impurities that may be harmful to human health.
- (3) The notification required under this regulation shall be accompanied by the fees prescribed in the Second Schedule to the Health and Safety at Work (Administration) Regulations, 1997, using Form OHS CF2 in Schedule 8.
- (4) The notified new chemical may be included in the Inventory to become an existing chemical, no later than one (1) year after the notification date.

Priority existing chemicals

- 34.** A person called the "notifier" in Section 54(4) of the Act, shall provide:
- (a) any or all of the information contained in Part II of Schedule 10 of these Regulations as determined by the Chief Health and Safety Inspector;
 - (b) such other information as determined by the Chief Health and Safety Inspector.

Assessment reports for chemicals

35. (1) For the purpose of Section 55(1) of the Act, an assessment report must include a Material Safety Data Sheet, a summary of health, safety and environmental matters considered in the assessment and such recommendations as may reasonably be made in relation to each of the following matters:

- (a) the precautions and restrictions to be observed during the importation, manufacture, handling, storage, use or disposal of the chemical to protect persons exposed to the chemical;
- (b) controls to limit emissions of the chemical into the environment, including permissible concentrations in emissions of the chemical into the air or water from a manufacturing plant or other facility;
- (c) the packaging, labelling, handling or storage of the chemical;
- (d) the measures to be employed in emergencies involving the chemical to minimize hazard to persons and damage to the workplace environment;
- (e) the use of the chemical;
- (f) the means of disposal of the chemical.

(2) For the purposes of section 55 (2) of the Act, the foreign assessment schemes specified in Part I of Schedule 10 are nominated.

PART 6 – MISCELLANEOUS*Transitional arrangements*

36. – (1) Employers shall ensure that all relevant records on workplace hazardous substances, which are required under these Regulations, and any MSDS or similar information, which is held by suppliers or employers, shall be provided to users and workers within 6 months from the commencement of these Regulations.

(2) A supplier shall ensure, in respect of the provisions of information under regulations 8 and 9, that:

- (a) all new hazardous substances comply with these Regulations within 12 months from the commencement of these Regulations; and
- (b) all existing hazardous substances comply with these Regulations within 18 months from the commencement of these Regulations.

(3) An employer shall comply with these Regulations in all respects, immediately after 24 months from the commencement of these Regulations.

Offences and penalties

37. – (1) Any person who contravenes or fails to comply with any provision of these Regulations commits an offence and shall be liable on conviction to a fine of not more than \$20,000 where that person is a corporation or \$2000 in any case.

(2) Notwithstanding sub-regulation (1), no prosecution for an offence shall be instituted against an employer specified in regulation 36 until after the expiration of the period specified in that regulation.

SCHEDULE 1**INGREDIENT DISCLOSURE – TYPES I, II AND III INGREDIENTS***(Regulation 4)***Type I Ingredients**

1. Subject to this Schedule, a Type I ingredient is an ingredient:

(a) that is:

- (i) A carcinogenic, mutagenic or teratogenic; or
- (ii) a skin or respiratory sensitiser; or
- (iii) a corrosive, very corrosive, toxic, very toxic or a harmful substance which can cause irreversible effects after acute exposure; or
- (iv) a harmful substance which can cause serious damage to health after repeated or prolonged exposure; or

(b) that is specifically listed in the current Exposure Standards; and

(c) that is present in the particular hazardous substance in a quantity which exceeds the lowest relevant concentration cut-off level under an approved classification system;

Type II Ingredients

2. Subject to this Schedule, a Type II ingredient is an ingredient:

(a) that is, according to an approved classification system, a harmful substance, but is not within the ambit of paragraph (a) of the definition of a type I ingredient; and

(b) that is present in the particular hazardous substance in a quantity which exceeds the lowest relevant concentration cut-off level under an approved classification system ;

Type III Ingredients

3. Subject to this schedule, a Type III ingredient is any ingredient, which does not meet the criteria for either Type I or Type II ingredients described above.

SCHEDULE 2

PART 1

FORM FOR NOTIFICATION OF USE OF GENERIC NAME

(Regulation 10(6))

Declaration of Confidentiality

- 1. Name and full address (including telephone number) of the person who is responsible for placing the substance on the market (manufacturer or importer).

.....

- 2. Precise identification of:

- a. The Type II ingredient for which confidentiality is proposed and the generic name.

.....

- b. Composition of the hazardous substance (as provided in an approved hazard communication system).

UN No.	Chemical Name according to international nomenclature and classification	Generic Name	Composition %

- 3. Justification for the confidentiality.

.....

- 4. Product name for the hazardous substance.

.....

- 5. Is the product name the same for use overseas and in all of Fiji?

YES _____
NO _____

If no, specify the product name used overseas and in the different jurisdictions.

.....
.....
.....
.....

Overseas (country):

.....
.....

6. Classification of the hazardous substance according to an approved classification system.

.....
.....
.....

7. Labelling of the substance(s) according to an approved hazard communication system.

.....
.....
.....

8. Intended uses for the hazardous substances.

.....
.....
.....
.....

9. Material Safety Data Sheets conforming to an approved hazard communication system.

.....
.....
.....
.....

Signature:.....

Date:.....

PART 2

CONFIDENTIALITY AGREEMENT FOR NON-DISCLOSURE OF COMMERCIALLY CONFIDENTIAL INFORMATION
(Regulation 11 (2))

IN CONSIDERATION of my being given access to confidential information concerning [...insert description of confidential information to be released ...], for the purposes of [...insert the purpose of the release of the confidential information...].

I.....hereby undertake as follows.

1. That, except insofar as is necessary to achieve the above purpose, I will not divulge or communicate any of the confidential information to any other person.
2. That I will not use the confidential information for any other purpose than the purpose for which the confidential information was released.

GIVEN by me.....(Signature of recipient)

.....(Print name and position)

In the presence of.(Signature of witness)

.....(Print name and position)

at.....(Place of signature)

on.....(Date of signature)

SCHEDULE 3**PROHIBITION OF HAZARDOUS SUBSTANCES FOR SPECIFIED PURPOSES***(Regulation 19)*

A list of hazardous substances and usages subject to prohibition as developed by Chief Health and Safety Inspector.

HAZARDOUS SUBSTANCES	SPECIFIED PURPOSES
Raw Asbestos	All use or handling other than for the purpose of sampling or analysis.
Any product that consists of or contains asbestos, other than chrysotile	All use or handling except handling of installed asbestos for maintenance purpose, removal, encapsulation or enclosure as may be prescribed by Regulations.
Any substance that consists of or contains asbestos	Application by spraying; and Installation as insulation; and High pressure cleaning of any such material
Installed insulation that consists of or contains asbestos	Sealing of such insulation
A substance that contains more than 5% free silica (crystalline silicon dioxide)	As an abrasive in abrasive blasting
A substance capable of causing harm to the upper respiratory tract of a person	As an abrasive in abrasive blasting
Any substance that contains more than 2% arsenic, lead, beryllium, cadmium, nickel, antimony, cobalt, chromium or tin.	As an abrasive in abrasive blasting
Any substance that contains chromate, nitrate or nitrite.	As a wet abrasive blasting inhibitor in wet abrasive blasting
Arsenic or its compound	Spray painting
Benzene (Benzol) if the substance contains more than 1% by volume	Spray painting
Carbon disulphide	Spray painting
Methanol (methyl alcohol), if the substance contains more than 1% by volume	Spray painting
Tetra-chloroethane	Spray painting
White phosphorus	Use in the manufacture of matches

SCHEDULE 4**RISK CONTROL – ENGINEERING CONTROL***(Regulation 25(7) (a))*

Frequency of thorough examination and test of local exhaust plant used in certain processes.

COLUMN 1 PROCESS	COLUMN 2 MAXIMUM FREQUENCY
Process in which blasting is carried out in or incidental to the cleaning of metal casting, in connection with their manufacture.	Every month.
Process other than wet process, in which metal articles (other than gold, platinum or iridium) are ground, abraded or polished using mechanical power, in any room for more than 12 weeks in any year.	Every six months.
Processes giving off dust or fume in which non-ferrous metal castings are produced.	Every six months.
Jute cloth manufacture.	Every month.

SCHEDULE 5**HAZARDOUS SUBSTANCES FOR WHICH HEALTH SURVEILLANCE IS REQUIRED**
(Regulation 27(1))

HAZARDOUS SUBSTANCE	TYPE OF HEALTH SURVEILLANCE
Acrylonitrile	Occupational and medical history; Demographic data; and Records of personal exposure.
Arsenic (Inorganic)	Occupational and medical history; Demographic data; Records of personal exposure; Physical examination with emphasis on the peripheral nervous system and skin; and Urinary tests - total arsenic.
Asbestos	Occupational and medical history; Demographic data; Records of personal exposure; and Completion of a standardized respiratory Questionnaire.
Cadmium	Occupational and medical history; Demographic data; Records of personal exposure; Physical examination with emphasis on the respiratory system; Completion of a standardized respiratory questionnaire; Standardized respiratory function test, such as FEV1, FVC and FEV1/FVC; and Urinary tests – cadmium and B2 microglobulin
Crystalline silica	Occupational and medical history; Demographic data; Completion of a standardized respiratory questionnaire; Standardized respiratory function test such as FEV1, FVC and FEV1/FVC; and Chest X-ray (full size PA view).
Isocyanates	Occupational and medical history; Completion of a standardized respiratory questionnaire; Physical examination of the respiratory system and skin; and Standardized respiratory function tests FEV1, FVC and FEV1/FVC.

Mercury (Inorganic)	Occupational and medical history; Demographic data; Records of personal exposure; Physical examination with an emphasis on dermatological, gastrointestinal, neurological and renal system; Urinary test - inorganic mercury.
4,4'Methylene bis (2-chloroaniline) (MOCA)	Occupational and medical history; Demographic data; Urinary total MOCA; Dipstick analysis of urine for Haematuria; and Urine cytology.
Organophosphate pesticides	Occupational and medical history; Physical examination; Baseline estimation of red cell and plasma cholinesterase activity levels by the Ellman or equivalent method; and Estimation of red cell and plasma cholinesterase activity towards the end of the working day.
Poly cyclic aromatic hydrocarbon	Occupational and medical history; Demographic data; Records of personal exposure; and Physical examination.
Vinyl chloride	Occupational and medical history; Demographic data; and Records of personal exposure.

SCHEDULE 6**FUMIGATION EXEMPTED FROM REGULATION 29***(Regulation 29(1))*

COLUMN 1 Fumigant	COLUMN 2 Nature of Fumigation
Hydrogen cyanide.	<p>Fumigation carried out for research.</p> <p>Fumigation in fumigating chambers.</p> <p>Fumigation in the open air to control or kill mammal pests.</p>
Ethylene oxide	<p>Fumigation carried out for research.</p> <p>Fumigation in fumigation chambers.</p>
Phosphine	<p>Fumigation carried out of research.</p> <p>Fumigation in fumigation chambers.</p> <p>Fumigation under gas-proof sheeting inside structures where not more than 1-kg phosphine in each structure is used in any period of 24 hours.</p> <p>Fumigation in containers where not more than 0.5-kg phosphine is used in any one fumigation in any period of 24 hours.</p> <p>Fumigation in individual impermeable packages.</p> <p>Fumigation in the open air to control or kill mammal pests.</p>
Methyl bromide	<p>Since methyl bromide is an ozone depleting substance (ODS), its use is regulated by ODS Act 1998 / Montreal Protocol. Health and safety aspects of methyl bromide use are regulated by these Regulations.</p>

SCHEDULE 7
NOTIFICATION OF CERTAIN FUMIGATION
(Regulation 29(2))

Part I **Persons to whom notification must be made**

(1). In the case of fumigation to be carried out within the area of ports authority, advance notification of fumigation shall, for the purpose of Regulation 29(2) (a), be given:

- (a) to the ports authority;
- (b) to the Health and Safety Inspector, if that inspector so requires: and
- (c) to the Quarantine Office
- (d) where the fumigation -
 - (i) is to be carried out on a sea going ship or aircraft of any kind, the National Fire Authority and the officer in charge of the office of the Fiji Islands Revenue & Customs Authority at the Port.
 - (ii) is the space fumigation of a building, the National Fire Authority.

(2). In the case of fumigation, other than fumigation to which paragraph (1) applies, advance notification of fumigation shall be given to -

- (a) the police officer for the time being in charge of the police station for the police district in which the fumigation is carried out;
- (b) the Health and Safety Inspector, if that inspector so requires: and
- (c) where the fumigation is to be carried out on a sea going ship or is the space fumigation of a building, the chief fire officer of the area in which the ship or building is situated.
- (d) the Quarantine officer in quarantine fumigations

Part II **Information to be given in advance notice of fumigation**

(1). The information to be given in a notification made for the purpose of Regulation 29 (2) (b) shall include the following:

- (a) the name, address and place of business of the fumigator and his or her telephone number;
- (b) the name of the person requiring the fumigation to be carried out:
- (c) the address and description of the premises where the fumigation is to be carried out:
- (d) the date on which the fumigation is to be carried out and the estimated time of commencement and completion:
- (e) the name of the operator in charge of the fumigation: and
- (f) the fumigant to be used.

SCHEDULE 8*(Regulation 32 & 33)***OHS CF FORMS****OHS CF1****APPLICATION FOR REGISTRATION OF INDUSTRIAL CHEMICALS**
HEALTH AND SAFETY AT WORK (CONTROL OF HAZARDOUS SUBSTANCES) REGULATIONS 2006

- This is the approved Form to be used by employer or persons in control of workplaces, pursuant to Regulation 32 of above-mentioned Regulations.
- Please complete the form in BLOCK LETTERS.
- The completed form and the applicable fees should reach the office of Ministry of Labour by 31st of March.

COMPANY DETAILS

Business Name

Date

Current Postal Address

Business Address

Technical Contact

Position

Phone

Fax Number

CATEGORY Importer User Manufacturer Exporter Supplier**CHEMICAL INFORMATION**

No	Product / Marketing / Other Name	Class Specification	Chemical Composition	Quantity (L or Kg) per annum (previous year)	Chemical Process Description (for chemical users only)
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

(Please make additional tables if necessary)

OHS CF2

NOTIFICATION OF NEW INDUSTRIAL CHEMICAL**HEALTH AND SAFETY AT WORK (CONTROL OF HAZARDOUS SUBSTANCES) REGULATIONS**

- This is the approved Form to be used by “notifiers” pursuant to Regulation 33 of the above-mentioned Regulations.
- Please complete the form in BLOCK LETTERS.
- The completed form and the applicable fees should reach the office of Ministry of Labour.

Manufacturer/Importer/Supplier

Business Name _____

Business Address _____

Postal Address _____

Phone _____ Fax _____

Technical Contact

Name _____ Position _____

Phone _____ Fax _____

Chemical

Chemical Name _____

Marketing or Other Name _____

UN Number _____

Name of foreign scheme _____

Declaration

I declare that to the best of my knowledge all the information in this Form is true, correct and complete. In relation to the documentation accompanying this application, I declare that I am entitled to use and give the Chief Health and Safety Inspector all data in the statement.


Name _____ Position _____

Signature _____ Date _____

OFFICIAL USE ONLY

Date Received _____

Officers Endorsement _____

 <p style="text-align: center;">Government of Fiji Ministry of Labour, Industrial Relations and Productivity National OHS Service</p> <p style="text-align: center;">Fax: 3315 029 Phone: 3316 999 / 331 4434</p>	<p>Application for import, export, manufacture, use or disposal of Prohibited / Restricted Chemicals</p> <p style="text-align: center;">Health and Safety At Work Act 1996</p> <p>This application should be submitted by those intending to seek approval for chemicals prohibited / restricted in _____ of the Health and Safety at Work Act 1996</p>
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Please ensure that all details are completed – Allow 21 working days for processing - incorrect or incomplete applications may cause delays in processing.

1. Importer / Exporter / Manufacturer / User details	2. Consignee details
<p>Company/individual Name:</p> <p>Address:</p> <p>Telephone No:</p> <p>Facsimile No.</p> <p>Electronic Mail Address:</p>	<p>Name:</p> <p>Address:</p> <p>Telephone No.:</p> <p>Facsimile No.:</p> <p>Electronic Mail Address:</p>


3. Description of the Goods (This section relates to chemicals and mixtures containing chemicals.)


<p>Name of Chemical:</p> <p>CAS No:</p> <p>UN No:</p> <p>Statistical Code/Tariff No:</p>	<p>Name Imported / Exported Under:</p> <p>Description of the mixture:</p> <p>% Prohibited/restricted chemical in mixture:</p> <p>Intended Use:</p> <p>Quantity:</p> <p>Total Value:</p>
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4. Shipment Details

<p>Approximate date of import / export:</p> <p>Quantity of chemical or mixture:</p> <p>If planning more imports / exports, expected total quantity in a year (if known):</p>	<p>Country of destination / origin:</p> <p>Intended use details:</p> <p>Indicate port of entry / exit in Fiji:</p>
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Mode of Transport (air/sea):	Import / Export Tariff/Statistical Code	
5. Attach a current Material Safety Data Sheet (MSDS) and Label		
<p>6. Importer / Exporter / Manufacturer / User Undertaking</p> <p>I, the Importer / Exporter / Manufacturer / User, undertake to import / export / manufacture / use / dispose of as per conditions set by the Chief Health and Safety Inspector and in compliance with the Customs Regulations or be liable for fines and penalties in the event that I contravene the said conditions and laws when importing / exporting / manufacturing / using / disposing of the chemical into Fiji.</p> <p>Importer / Exporter / Manufacturer / User Name: _____ Signature: _____ Date: _____</p>		
7. Declaration		
<p>I hereby consent to release of the details contained in this application to law enforcement and regulatory bodies in Fiji or Overseas for purposes relating to this import / export.</p> <p>Signature: _____ Date: _____</p> <p>Name (please print): _____ Tel. No.: _____</p> <p>Position: _____ Fax No.: _____</p>		
<p>Please Submit Applications By Fax To: (679) 3315029</p> <p>Please Direct Inquiries To Ph: (679) 331 6999 / (679) 331 4434</p>	<p>or by mail to:</p>	<p>MLIRP National OHS Service P.O.Box 2216 Government Buildings Suva Fiji</p>
<u>Official Use</u>		

 <p style="text-align: center;">Government of Fiji Ministry of Labour, Industrial Relations and Productivity National OHS Service</p> <p style="text-align: center;">Fax: 3315 029 Phone: 3316 999 / 331 4434</p>	<p>License To Import Prohibited / Restricted Chemicals</p> <p style="text-align: right;">License No: _____</p>
<p>1. Name Of Importer:</p> <p>2. Address:</p> <p>3. Country Chemical Imported From:</p> <p>4. Port At Which Chemical Will Arrive In Fiji:</p> <p>5. Expected Date Of Arrival:</p> <p>Description of Chemical</p> <p>1. Name of Chemical:</p> <p>2. CAS Registry and UN Number:</p> <p>3. Statistical Code/Tariff Number:</p> <p>4. Name Imported Under:</p> <p>5. Intended Use:</p> <p>6. Quantity:</p> <p>8. Vessel/Carrier:</p>	
<p><u>To: The Controller of Customs</u></p> <p>The above importer is hereby licensed to import chemicals as described above, from the country as stated subject to the following conditions:</p> <ol style="list-style-type: none"> 1. Importer must meet all the terms and conditions set by the Chief Health and Safety Inspector. 2. Failure to comply will result in fines and non-issuance of future Import License. <p>Date License Issued: _____</p> <p>Signature: _____ <u>Chief Health and Safety Inspector</u></p> <p>NOTE: This License is valid for a period of _____ only from the date of issue.</p>	

 <p style="text-align: center;">Government of Fiji Ministry of Labour, Industrial Relations and Productivity National OHS Service</p> <p style="text-align: center;">Fax: 3315 029 Phone: 3316 999 / 331 4434</p>	<p style="text-align: center;">License To Export Prohibited / Restricted Chemicals</p> <p style="text-align: right;">License No: _____</p>
<p>1. Name of Exporter:</p> <p>2. Address:</p> <p>3. Country Chemical Exported To:</p> <p>4. Port At Which Chemical Will Depart from Fiji:</p> <p>5. Expected Date Of Departure:</p> <p>Description of Chemical</p> <p>1. Name of Chemical:</p> <p>2. CAS Registry and UN Number:</p> <p>3. Statistical Code/Tariff Number:</p> <p>4. Name Exported Under:</p> <p>5. Intended Use:</p> <p>6. Quantity:</p> <p>8. Vessel/Carrier:</p>	
<p><u>To: The Controller of Customs</u></p> <p>The above exporter is hereby licensed to export chemicals as described above, to the country as stated subject to the following conditions:</p> <ol style="list-style-type: none"> 1. Exporter must meet all the terms and conditions set by the Chief Health and Safety Inspector. 2. Failure to comply will result in fines and non-issuance of future Export License. <p>Date License Issued: _____</p> <p>Signature: _____ <u>Chief Health and Safety Inspector</u></p> <p>NOTE: This License is valid for a period of _____ only from the date of issue.</p>	

SCHEDULE 9*(Regulations 4(1), 7, 9, 14, 16)***APPROVED SYSTEMS**

	Approved Systems
Approved Classification System	Australian National Occupational Health and Safety Commission's <i>Approved Criteria for Classifying Hazardous Substances</i> [NOHSC: 1008(2004)], as amended from time to time
Approved Hazard Communication System	Australian National Occupational Health and Safety Commission's: <ul style="list-style-type: none"> i. National Code of Practice for the Labelling of Workplace Substance [NOHSC: 2012 (1994)], as amended from time to time; and ii. National Code of Practice for the Preparation of Material Safety Data Sheets [NOHSC: 2011(1994)], as amended from time to time

Note:

Copies of the approved classification system and approved hazard communication system can be obtained from the Office of the Ministry of Labour, Industrial Relations & Productivity.

SCHEDULE 10*(Regulation 35)***PART I****NOMINATED FOREIGN ASSESSMENT SCHEMES**

- (a) National Industrial Chemicals Notification and Assessment Scheme (NICNAS), Australia;
- (b) European Inventory of Existing Commercial Chemical Substances (EINECS) issued by the Commission of European Communities;
- (c) List of Existing Chemical Substances issued by the Ministry of International Trade and Industry, Japan;
- (d) Existing Chemical List issued by the Ministry of Labour, Japan; and
- (e) Toxic Substances Control List (TSCA) Chemical Substance Inventory issued by the United States Environmental Protection Agency, Office of Toxic Substances, Washington.

PART II**MATTERS TO BE DEALT WITH IN NOTIFICATION STATEMENT ABOUT CHEMICAL***(Regulation 34)***PART A**

1. Summary of the chemical's health effects and environmental effects.
2. Summary of how the chemical meets the definition of hazardous substance.
3. Details of any notification made in relation to the chemical in a country other than Fiji.
4. Bibliography of the publications referred to in the statement.

PART B

1. The following matters identifying the chemical, and, in the case of synthetic polymer, each other chemical that is one of its constituent monomers:
 - (a) the chemical name of the chemical, that is to say:
 - (i) in the case of a pure chemical—the name for it to be used in the Fiji Chemical Inventory, that is the chemical abstracts (CA) preferred Index Name, or, if such a name is not available, the name for it to be used by the International Union for Pure and Applied Chemistry; or
 - (ii) in any other case—as complete a description of the chemical as is practicable; including, in the case of a biopolymer, a description of the biological source of the biopolymer;
 - (b) the name or names by which the chemical is known or identified in the scientific or technical literature;
 - (c) the name under which the chemical has been, or will be, marketed;
 - (d) the number assigned to the chemical by the service known as the Chemical Abstract Service;
 - (e) the chemical's molecular formula and structural formula;

- (f) the chemical's gram-molecular weight;
 - (g) copies of spectra, which have been measured to confirm the chemical's structural formula.
2. The following matters showing the composition of the chemical:
- (a) the degree of purity of the chemical, that is to say the weight-percentage of a sample of the chemical that is not an impurity;
 - (b) the weight-percentage of a sample of the chemical that is a known or reasonably anticipated impurity, including an isomer or a by-product, of a hazardous or toxic nature and details of the toxic properties and hazardous properties of the impurities;
 - (c) the weight-percentage of a sample of the chemical that is a non-hazardous impurity of not less than 1% by weight of the sample;
 - (d) the weight percentage of a sample of the chemical that is an additive or adjuvant and the identity of the additives or adjuvants.
3. The proposed uses of the chemical in descending order of importance and the approximate percentage of the quantity of the chemical to be introduced by the notifier that is to have each use.
4. The appearance, being the colour and form, of the chemical at 20° celsius and 101.3kPa and a description of the odour (including the odour threshold) and volatility of the chemical.
5. The quantity, in a range of tonnes per year of 1 to 10, 10 to 100, 100 to 1,000 and over 1,000 of the chemical proposed to be imported into Fiji by the notifier in each of the next 5 years and the quantity, in such a range, of it proposed to be manufactured in Fiji by the notifier in each of those years.
6. The following matters affecting occupational health and safety:
- (a) data about occupational exposure factors, that is to say:
 - (i) the number, and categories, of workers to be involved in working with the chemical; and
 - (ii) the nature of the work to be done by them; and
 - (iii) the safety procedures to be observed when handling the chemical; and
 - (iv) a brief description of the training and education in safe working practices to be given to those workers; and
 - (v) data about the occurrence of work related injuries and diseases affecting workers dealing with the chemical; and
 - (vi) any other data relating to occupational hazard associated with the chemical; and
 - (b) a list of health conditions (if any) which indicate that the notified chemical should not be used; and
 - (c) particulars of procedures for the atmospheric monitoring and biological monitoring of the effects of the chemical; and
 - (d) information held or reasonably obtainable, by the notifier about studies and observations of health problems or adverse symptoms occurring in humans exposed to the substance.
7. The following matters affecting the impact of the chemical on the environment:
- (a) where the chemical is to be manufactured or reformulated in Fiji:
 - (i) the site of the manufacture or reformulation; and
 - (ii) the processes to be carried out at that site; and
 - (iii) information about the release of chemicals into the environment likely to occur at that site;
 - (b) in respect of each use of the chemical, information about the situations in which the chemical will be released into the environment and the quantity and concentration of the release;

- (c) the requirements for the safe storage of the chemical;
 - (d) a description of all procedures for the disposal of the chemical and the identity and hazards of any degradation products resulting from the disposal.
- 8.** A brief description of any way in which the chemical could be harmful or hazardous to the health of the public at large.
- 9.** The following physical and chemical data about the chemical:
- (a) whichever of the melting point, boiling point or freezing point of the chemical is appropriate;
 - (b) the chemical's density in kg/m³, and:
 - (i) in the case of a gas—its specific gravity where air = 1; and
 - (ii) in the case of a liquid—density and vapour density;
 - (c) the chemical's vapour pressure in kilopascals at 25 °C;
 - (d) the chemical's solubility in grams per litre in water at 20 °C;
 - (e) in the case of a chemical whose water solubility exceeds 10⁻⁶ gms/litre—the degrees of hydrolysis at 25 °C at pH values of 4-9 and 1-2;
 - (f) in the case of a chemical that dissolves in water without dissociation or association and which is not surface-active—the partition coefficient (n-octanol/water) at 20 °C expressed at log Pow;
 - (g) information about the adsorption and desorption of the chemical to and from standard soils;
 - (h) in the case of a chemical that dissociates in water—the dissociation constant expressed as pKa determined by a specified manner;
 - (j)
 - (i) in the case of a chemical that is a solid—the mean particle size and size range including the respirable fraction (1-10 microns); or
 - (ii) in the case of a chemical that is fibrous—fibre length and length range;
 - (k) the flash point in °C of the chemical as determined by whichever of the open cup or closed cup method is specified in the notification statement;
 - (m) the degree of the chemical's flammability, including:
 - (i) the upper and lower limits of flammability in air; and
 - (ii) details of the nature and identity of toxic and hazardous products of the chemical's combustion;
 - (n) the minimum temperature for the chemical's auto ignition;
 - (p) information about the chemical's potential (if any) to detonate as the result of heat, shock or friction;
 - (q) information about the stability and reactivity of the chemical, including:
 - (i) particulars of conditions constituting the chemical's instability; and
 - (ii) information about the products of the chemical's decomposition and their hazards.
 being data obtained from tests:
 - (r) of samples of the chemical of a specified purity as described in paragraph 2 (a); and
 - (s) by a specified authority or organisation; and
 - (t) conducted under specified conditions; and
 - (u) conducted in accordance with the principles of good laboratory practice.
- 10.** Identification of the analytical methods for the detection and determination of the chemical.
- 11.** Particulars of the labels in the presented form to be fixed to products consisting of or containing the chemical.

12. Particulars of the proposed Material Safety Data Sheet in the prescribed form for the chemical and for all commercially available products, or substances used in the workplace, containing the chemical.
13. (a) a full description of procedures for making the chemical harmless in an emergency in the workplace; and
(b) a full description of procedures for making the chemical harmless in an emergency outside the workplace.

PART C

The following data about the effects of the chemical:

- (a) the chemical's toxic effects after a single oral administration;
- (b) the chemical's toxic effects after a single dermal exposure;
- (c) the chemical's toxic effects on inhalation;
- (d) in the case of a chemical that does not have predictable corrosive properties—the extent of dermal irritation caused by the chemical;
- (e) in the case of a chemical that does not have predictable corrosive properties—the extent of eye irritation caused by the chemical;
- (f) any sensitizing potential of the chemical;
- (g) the toxic effects of the chemical on administration for a period of 10 to 14 days;
- (h) any induction by the chemical of point mutations in microbial test systems;
- (j) any induction by the chemical of germ cell damage;
- (k) any production by the chemical of chromosome damage in mammalian cells grown *in vitro*;
- (m) the toxicity of the chemical to fish after their continuous exposure for 4 days to a series of concentrations of the chemical in water assessed by the test known as the Fish Acute Toxicity Test;
- (n) the toxicity of the chemical to aquatic invertebrates shown by the effects of the chemical on daphnids exposed to a series of concentrations of the chemical in water assessed by the test known as *Daphnia* sp, Acute Immobilisation Test and Reproduction Test;
- (p) the effects of the chemical on algae exposed for at least 3 days to a series of concentrations of the chemical in water assessed by the test known as Algal Growth Inhibition Test;
- (q) the tendency of the chemical to degrade assessed using the test known as Ready Biodegradability Test;
- (r) the potential of the chemical to bioaccumulate in both aquatic and land environments;
being data obtained:
 - (s) by specified methods; and
 - (t) from specified raw data; and
 - (u) in the case of paragraphs (h), (j) and (k) —having regard to the likely handling of the chemical.

PART D

1. The weight-percentage of the total ingredients for the polymer that is represented by each ingredient.

2. The number-average molecular weight of the polymer or, polymers of more than one molecular weight composition are to be introduced, the lowest number-average molecular weight.
3. The weight-percentage of low molecular weight species of the polymer on its introduction represented by each residual monomer.
4. The maximum weight percentage of low molecular weight species of the polymer below 1,000.
5. Information about all products resulting from the degradation, decomposition or depolymerisation of the polymer.
6. Information on the natural loss of monomers, additives and impurities from the polymer.

Made this 28th day of September 2006.

K. DATT
Minister for Labour and Industrial Relations