

Version No. 002**Occupational Health and Safety (Confined Spaces) Regulations 1996****S.R. No. 148/1996**

Version incorporating amendments as at 28 October 2002

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Occupational Health and Safety (Confined Spaces) Regulations 1996

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PART 1—PRELIMINARY

1. Objective

The objective of these Regulations is to protect people at work against risks to health or safety associated with the entry to, work in and exit from confined spaces.

2. Authorising provision

These Regulations are made under section 59 of the **Occupational Health and Safety Act 1985**.

3. Commencement

These Regulations come into operation on 1 March 1997.

4. Definitions

(1) In these Regulations—

"Act" means the **Occupational Health and Safety Act 1985**;

"confined space" means a space in any vat, tank, pit, pipe, duct, flue, oven, chimney, silo, reaction vessel, container, receptacle, underground sewer, well, or any shaft, trench or tunnel (except where the shaft, trench or tunnel is a mine or is part of the workings of a mine) or other similar enclosed or partially enclosed structure, if the space—

Reg. 4(1)
def. of
"confined
space"
amended by
S.R. No.
104/2002
reg. 602(a).

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- (a) is, or is intended to be, or is likely to be, entered by any person; and
- (b) has a limited or restricted means for entry or exit that makes it physically difficult for a person to enter or exit the space; and
- (c) is, or is intended to be, at normal atmospheric pressure while any person is in the space; and
- (d) contains, or is intended to contain, or is likely to contain—
 - (i) an atmosphere that has a harmful level of any contaminant; or
 - (ii) an atmosphere that does not have a safe oxygen level; or
 - (iii) any stored substance, except liquids, that could cause engulfment;

"contaminant" means any substance which may be harmful to health or safety;

"emergency procedures" means the procedures established by an employer under regulation 25(1);

"entry permit" means the written approval of an employer to enter a confined space;

"hazard" means the potential to cause injury or illness;

"mine" means—

- (a) a workplace at which work is being done under a mining licence granted under the **Mineral Resources Development Act 1990**; or

Reg. 4(1)
def. of "mine"
inserted by
S.R. No.
104/2002
reg. 602(b).

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(b) a workplace at which exploration, within the meaning of the **Mineral Resources Development Act 1990**, in the form of—

- (i) underground work of any kind; or
- (ii) drilling from the surface for coal-bed methane—

is being done under an exploration licence granted under the **Mineral Resources Development Act 1990**; or

(c) in relation to a tourist mine within the meaning of the **Mineral Resources Development Act 1990**, those parts of the mine that are underground and all infrastructure and plant associated with the underground workings;

"relevant employee" means—

- (a) any employee required to enter a confined space; or
- (b) any employee who has any function in relation to work in a confined space or the emergency procedures, but who is not required to enter the space; or
- (c) any person supervising any employee referred to in paragraph (a) or (b);

"risk" means the likelihood of injury or illness arising from exposure to any hazard;

"safe oxygen level" means an oxygen content in air under normal atmospheric pressure that—

- (a) is equal to or greater than 19.5 per cent by volume (equivalent to a partial pressure of oxygen of 19.8 kPa); but

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- (b) is equal to or less than 23.5 per cent by volume (equivalent to a partial pressure of oxygen of 23.9 kPa).
- (2) Any reference in these Regulations to—
- (a) **"work in a confined space"** means work in the space by an employee and includes the entry to and exit from the space by the employee; and
- (b) **"designer"**, **"manufacturer"**, **"importer"** or **"supplier"** in relation to plant is a reference to a person who designs, manufactures, imports or supplies (as the case may be) that plant for use in a workplace.

5. Application of these Regulations in relation to other regulations under the Act

- (1) If, in relation to plant, these Regulations impose on any person a requirement which is inconsistent with or equivalent to a requirement imposed by the Occupational Health and Safety (Plant) Regulations 1995¹, the person is only required to comply with the requirement imposed by these Regulations².
- (2) If, in relation to a confined space, any regulation made under the Act (other than these Regulations) which deals with a specific hazard imposes on any person a requirement which is inconsistent with or equivalent to a requirement imposed by these Regulations, the person is only required to comply with the requirement imposed by the regulation which deals with a specific hazard³.

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6. Application of these Regulations in relation to an employer of an emergency service employee

- (1) These Regulations do not apply to an employer of an emergency service employee if at the direction of the employer the employee is—
 - (a) undertaking the rescue of a person from a confined space; or
 - (b) providing first aid to a person in a confined space.
- (2) In this regulation "**emergency service employee**" means—
 - (a) an officer or member of the police force of Victoria; or
 - (b) an officer or member of a metropolitan fire brigade; or
 - (c) an officer or member of an urban or rural fire brigade; or
 - (d) an employee of an ambulance service; or
 - (e) a member of the Victoria State Emergency Service.

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Suppliers

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**PART 2—DUTIES WHICH APPLY TO DESIGNERS,
MANUFACTURERS, IMPORTERS AND SUPPLIERS**

**7. Duties which apply to a designer of plant which
includes, or is intended to include, a confined space**

- (1) A designer of plant which includes, or is intended to include, a confined space must ensure that the plant is designed so that—
 - (a) the need for any person to enter the space is eliminated; or
 - (b) if it is not practicable to eliminate the need to enter the space—
 - (i) the need to enter is reduced so far as is practicable; and
 - (ii) any risk associated with the means of entry to and exit from the space is eliminated, or if it is not practicable to eliminate the risk, reduced so far as is practicable.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

- (2) Sub-regulation (1) applies—
 - (a) to designs which are started on or after the date of commencement of these Regulations; and
 - (b) to alterations to existing designs which are started on or after that commencement; and
 - (c) to existing designs except where—
 - (i) the manufacture of plant to which the design applies has started before that commencement; or
 - (ii) the designer no longer has control or management of the design.

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- (3) A designer of plant which includes, or is intended to include, a confined space must comply with this regulation in relation to an existing design to which this regulation applies before the start of manufacture of the plant to which the design applies.
- (4) In this regulation "**existing design**" means a design which was completed before the date of commencement of these Regulations.

8. Duties which apply to a manufacturer of plant which includes, or is intended to include, a confined space

- (1) A manufacturer of plant which includes, or is intended to include, a confined space must ensure that the plant is manufactured so that—
 - (a) the need for any person to enter the space is eliminated; or
 - (b) if it is not practicable to eliminate the need to enter the space—
 - (i) the need to enter is reduced so far as is practicable; and
 - (ii) any risk associated with the means of entry to and exit from the space is eliminated, or if it is not practicable to eliminate the risk, reduced so far as is practicable.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

- (2) This regulation does not apply to plant manufactured before the date of commencement of these Regulations.

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9. Duties which apply to an importer of plant which includes, or is intended to include, a confined space

- (1) Subject to sub-regulation (2), an importer of plant which includes, or is intended to include, a confined space must ensure that the plant has been designed and manufactured in accordance with regulations 7 and 8 before the plant leaves the control of the importer.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

- (2) If it is not practicable to comply with sub-regulation (1) the importer must ensure, before the plant leaves the control of the importer, that—
- (a) the need for any person to enter the confined space is eliminated; or
 - (b) if it is not practicable to eliminate the need to enter the space—
 - (i) the need to enter is reduced so far as is practicable; and
 - (ii) any risk associated with the means of entry to and exit from the space is eliminated, or if it is not practicable to eliminate the risk, reduced so far as is practicable.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

- (3) This regulation does not apply to plant ordered by an importer before the date of commencement of these Regulations.

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**10. Duties which apply to a supplier of plant which
includes, or is intended to include, a confined space**

- (1) Subject to sub-regulation (2), a supplier of plant which includes, or is intended to include, a confined space must ensure that the plant has been designed and manufactured in accordance with regulations 7 and 8 before the plant leaves the control of the supplier.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

- (2) If it is not practicable to comply with sub-regulation (1) the supplier must ensure, before the plant leaves the control of the supplier, that—
- (a) the need for any person to enter the confined space is eliminated; or
 - (b) if it is not practicable to eliminate the need to enter the space—
 - (i) the need to enter is reduced so far as is practicable; and
 - (ii) any risk associated with the means of entry to and exit from the space is eliminated, or if it is not practicable to eliminate the risk, reduced so far as is practicable.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

- (3) This regulation does not apply to plant ordered by a supplier before the date of commencement of these Regulations.

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11. This Part only to apply to confined spaces under the control or management of an employer

In this Part a reference to a confined space in relation to an employer, means any confined space under the control or management of the employer.

12. Employer's duty to consult health and safety representative in certain circumstances

If practicable, an employer must consult with a health and safety representative of a designated work group when undertaking hazard identification, risk assessment or control of risk processes under these Regulations which relate to work in a confined space that may affect the health or safety of any member of the health and safety representative's designated work group.

Penalty: Body corporate—400 penalty units, or in any other case—100 penalty units.

13. Hazard identification and risk assessment may be for classes of confined spaces

If an employer is required under these Regulations to carry out hazard identification or risk assessment procedures for a confined space, the employer may carry out those procedures for a class of confined space rather than for an individual confined space if—

- (a) all the confined spaces in the class are similar in nature; and
- (b) the hazard identification or risk assessment procedures carried out for the class of confined space do not result in any employee being subject to a different risk than if the procedures were carried out for each individual confined space.

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14. Employer's duty to undertake hazard identification

An employer must ensure that all hazards associated with work in a confined space are identified, having regard to the state of knowledge about the hazards.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

15. Employer's duty to undertake and record risk assessment

- (1) If a hazard is identified under regulation 14, an employer must ensure that an assessment is made to determine whether there is any risk associated with that hazard.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

- (2) An employer must ensure that an assessment under sub-regulation (1) takes into account—
- (a) the nature of the confined space; and
 - (b) if a hazard is associated with the level of oxygen or the level of any contaminant in the atmosphere of the confined space, any change that may occur in the level of oxygen or contaminant; and
 - (c) the work required to be carried out in the confined space, the range of methods by which the work can be done and the selected method of working; and
 - (d) any work required to be performed outside the confined space that may be associated with a hazard; and

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(e) the means of entry to and exit from the confined space; and

(f) the type of emergency procedures required.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

(3) An employer must ensure that an assessment under this regulation is revised, or another assessment is carried out, whenever changed circumstances indicate that the assessment is no longer adequate to determine the risks associated with the hazard.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

(4) An employer must ensure that the results of any assessment are recorded and retained by the employer while the assessment is relevant to the confined space.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

16. Employer's general duty to control risk

(1) An employer must ensure that any risk associated with work in a confined space is—

(a) eliminated; or

(b) if it is not practicable to eliminate the risk, reduced so far as is practicable.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

(2) Nothing in this Part (except regulation 11) limits the operation of this regulation.

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17. Employer's duty to undertake specific measures to control risk in relation to isolation of plant and services connected to a confined space

An employer must ensure that any risk associated with work in a confined space in relation to—

- (a) the introduction of any substance or condition from or by any plant or services connected to the space; or
- (b) the activation or energising in any way of any plant or services connected to the space—

is eliminated, or if it is not practicable to eliminate the risk, reduced so far as is practicable.

Penalty: Body corporate—400 penalty units, or in any other case—100 penalty units.

18. Employer's duty to undertake specific measures to control risk in relation to the atmosphere of a confined space

- (1) An employer must ensure, in relation to work in a confined space, that—
 - (a) so far as is practicable, purging or ventilation of any contaminant in the atmosphere of the space is carried out; and
 - (b) pure oxygen or gas mixtures with oxygen in a concentration greater than 21 per cent by volume are not used for purging or ventilation of any contaminant in the atmosphere of the space.

Penalty: Body corporate—400 penalty units, or in any other case—100 penalty units.

- (2) An employer must ensure during work in a confined space that—
 - (a) the atmosphere of the space has a safe oxygen level; or

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- (b) if it is not practicable to comply with paragraph (a), the employee uses air supplied respiratory protective equipment.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

- (3) An employer must ensure during work in a confined space that if there is any contaminant in the atmosphere of the space and the exposure standard (if any) of the contaminant is exceeded in respect of the circumstances of that work —

- (a) the concentration of the contaminant is reduced to or below the exposure standard for that contaminant; or
- (b) if it is not practicable to comply with paragraph (a), the employee uses air supplied respiratory protective equipment or other appropriate personal protective equipment.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

- (4) In this regulation—

"exposure standard" of a contaminant means an airborne concentration of that contaminant in a person's breathing zone as set out in the *"Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment"*, published by the National Occupational Health and Safety Commission in May 1995, as amended or published from time to time;

"breathing zone" means a hemisphere of 300 mm radius extending in front of a person's face measured from the midpoint of an imaginary line joining the ears;

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"purging" means the method by which any
contaminant is displaced from a confined
space.

**19. Employer's duty to undertake specific measures to
control risk in relation to fire, explosion and
flammable gases or vapours**

- (1) If there is a likelihood of fire or explosion in a
confined space an employer must ensure that no
source of ignition is introduced to the space,
whether introduced from within or outside the
space.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

- (2) An employer must ensure during work in a
confined space that—
- (a) the concentration of any flammable gas or
vapour in the atmosphere of the space is
below 5 per cent of its LEL; or
 - (b) if it is not practicable to comply with
paragraph (a) and the concentration of any
flammable gas or vapour in the atmosphere
of the space—
 - (i) is equal to or greater than 5 per cent but
less than 10 per cent of its LEL, any
employee is removed immediately from
the space unless a suitably calibrated
continuous monitoring flammable gas
detector is used in the space while the
employee is in the space; or
 - (ii) is equal to or greater than 10 per cent of
its LEL, any employee is removed
immediately from the space.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

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- (3) In this regulation "**LEL or lower explosive limit**" of a flammable gas or vapour means the concentration of that gas or vapour in air below which the propagation of a flame does not occur on contact with an ignition source.

20. Employer's duty to undertake specific measures to control risk in relation to signs

During work in a confined space and work in relation to the preparation for or completion of that work, an employer must ensure, so far as is practicable, that signs are erected in the immediate vicinity of the space which—

- (a) identify the space; and
- (b) notify employees that they must not enter the space unless they have an entry permit; and
- (c) are clear and prominently positioned.

Penalty: Body corporate—400 penalty units, or in any other case—100 penalty units.

21. Employer's duty to undertake specific measures to control risk in relation to maintenance of plant

An employer must ensure that any plant—

- (a) used to control risk associated with work in a confined space; or
- (b) for use in the emergency procedures—

is maintained so that it is fit for the purpose.

Penalty: Body corporate—400 penalty units, or in any other case—100 penalty units.

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22. Employer's duties in relation to written approval for entry to a confined space by an employee

(1) An employer must ensure that—

- (a) any employee who enters a confined space has an entry permit to enter the space; and
- (b) the permit complies with this regulation.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

(2) An entry permit—

- (a) must only apply to one confined space; and
- (b) may approve one or more employees to enter that space.

(3) An entry permit must list—

- (a) the confined space that the permit applies to; and
- (b) the measures to control risk for the confined space; and
- (c) the name of any employee approved to enter the confined space; and
- (d) if an employer assigns any employee to carry out any function in relation to regulation 23, the name of the employee; and
- (e) the period of time that the permit is in operation.

(4) An employer must ensure that entry permits are retained by the employer for one month from the date on which the permit ceases to be in operation.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

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23. Employer's duties in relation to communication and initiation of emergency procedures by a stand-by person or alternative

An employer must ensure, in relation to work in a confined space, that from outside the space—

- (a) there is continuous communication between the employer or a person authorised by the employer and any employee in the space; and
- (b) the emergency procedures can be initiated.

Penalty: Body corporate—400 penalty units, or in any other case—100 penalty units.

24. Employer's duty to ensure procedure to know when employees are in a confined space and record exit of employees on completion of work

- (1) During the time that an entry permit is in operation, an employer must ensure that a procedure is in place so that the employer or a person authorised by the employer knows when any employee is in a confined space.

Penalty: Body corporate—400 penalty units, or in any other case—100 penalty units.

- (2) An employer must ensure that—

- (a) all employees have exited a confined space on completion of work for which an entry permit is in operation; and
- (b) for the purpose of paragraph (a), there is a record in writing that all employees have exited the confined space.

Penalty: Body corporate—400 penalty units, or in any other case—100 penalty units.

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25. Employer's duties in relation to emergency procedures and other matters in an emergency situation

- (1) An employer must ensure, in relation to work in a confined space, that emergency procedures are established for the control and management of an emergency situation in the space, including procedures for—

- (a) the rescue of any employee from the space; and
- (b) first aid to be provided to any employee in the space and after rescue from the space.

Penalty: Body corporate—400 penalty units, or in any other case—100 penalty units.

- (2) An employer must ensure that the emergency procedures take into account—

- (a) the functions carried out in relation to regulation 23; and
- (b) the results of any risk assessment relevant to the confined space.

Penalty: Body corporate—400 penalty units, or in any other case—100 penalty units.

- (3) An employer must ensure that the emergency procedures are—

- (a) rehearsed by the relevant employees; and
- (b) carried out as soon as possible after an emergency situation arises in a confined space.

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- (4) An employer must ensure that any risk associated with the carrying out of the emergency procedures is—

- (a) eliminated; or
- (b) if it is not practicable to eliminate the risk, reduced so far as is practicable.

Penalty: Body corporate—400 penalty units, or in any other case—100 penalty units.

- (5) An employer must ensure that any employee who enters or carries out emergency procedures in a confined space in an emergency situation—

- (a) arising from an atmosphere that does not have a safe oxygen level; or
- (b) where there is a likelihood of the condition under paragraph (a) arising while the employee is in the space—

uses air supplied respiratory protective equipment.

Penalty: Body corporate—400 penalty units, or in any other case—100 penalty units.

- (6) An employer must ensure that any employee who enters or carries out emergency procedures in a confined space in an emergency situation—

- (a) arising from an atmosphere that has a harmful level of any contaminant or from engulfment; or
- (b) where there is a likelihood of a condition under paragraph (a) arising while the employee is in the space—

uses air supplied respiratory protective equipment or other appropriate personal protective equipment.

Penalty: Body corporate—400 penalty units, or in any other case—100 penalty units.

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(7) An employer must ensure that—

- (a) openings for the entry to and exit from a confined space are of adequate size to permit the rescue of any employee in the space and are not obstructed by fittings or plant that could impede rescue; or
- (b) if it is not practicable to comply with paragraph (a), an alternative means of entry to and exit from the space for rescue purposes is provided.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

(8) If an alternative means of entry to and exit from a confined space for rescue purposes is provided under sub-regulation (7)(b), the employer must ensure that any risk associated with the alternative is—

- (a) eliminated; or
- (b) if it is not practicable to eliminate the risk, reduced so far as is practicable.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

**26. Employer's duties in relation to information,
instruction and training**

An employer must ensure, in relation to work in a confined space, that the relevant employees are provided with information, instruction and training in—

- (a) the nature of any hazard and risk associated with the space; and
- (b) the need for, and proper use of, measures to control risk; and
- (c) the selection, use, fit, testing and storage of any personal protective equipment; and

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(d) the contents of any entry permit relevant to the employees; and

(e) the emergency procedures.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

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S.R. No. 148/1996

Part 4—Duties which Apply to Self-Employed Persons

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**PART 4—DUTIES WHICH APPLY TO SELF-EMPLOYED
PERSONS**

**27. Self-employed person to generally have the same
duties of an employer**

- (1) A self-employed person must comply with the requirements of Part 3 of these Regulations as if that person were an employer.

Penalty: Body corporate—400 penalty units, or
in any other case—100 penalty units.

- (2) A self-employed person's duties under this regulation only apply to people who may be exposed to a risk arising from the conduct of the undertaking of the self-employed person.
- (3) In this regulation "**self-employed person**" does not include a person who employs one or more other persons.
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Endnotes

ENDNOTES

1. General Information

The Occupational Health and Safety (Confined Spaces) Regulations 1996, S.R. No. 148/1996 were made on 10 December 1996 by the Governor in Council under section 59 of the **Occupational Health and Safety Act 1985**, No. 10190/1985 and came into operation on 1 March 1997: regulation 3.

The Occupational Health and Safety (Confined Spaces) Regulations 1996 will sunset 10 years after the day of making on 10 December 2006 (see section 5 of the **Subordinate Legislation Act 1994**).

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Endnotes

2. Table of Amendments

This Version incorporates amendments made to the Occupational Health and Safety (Confined Spaces) Regulations 1996 by statutory rules, subordinate instruments and Acts.

Occupational Health and Safety (Mines) Regulations 2002, S.R. No. 104/2002

Date of Making: 22.10.02

Date of Commencement: 28.10.02: reg. 103

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Endnotes

3. Explanatory Details

¹ S.R. No. 81/1995.

² Note that the application of Statutory Rule No. 81/1995 is limited to certain types of plant.

³ At the time of making these Regulations there are 4 regulations which specifically come within the category of a regulation "which deals with a specific hazard". They are: the Occupational Health and Safety (Asbestos) Regulations 1992; the Occupational Health and Safety (Lead Control) Regulations 1988; the Occupational Health and Safety (Manual Handling) Regulations 1988; and the Occupational Health and Safety (Noise) Regulations 1992.

**Table of Applied, Adopted or Incorporated Matter Required by
Subordinate Legislation Regulations 1994**

The following table of applied, adopted or incorporated matter is included in S.R. No. 148/1996 in accordance with the requirements of regulation 6 of the Subordinate Legislation Regulations 1994.

Statutory Rule Provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 18(3) and (4).	Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment, published by the National Occupational Health and Safety Commission in May 1995.	The whole document.