1979 No. 187

HEALTH AND SAFETY

FACTORIES

Employment Medical Advisory Service (Factories Act Legislation Amendment) Regulations (Northern Ireland) 1979

Made . . . . . 4th *June* 1979

Coming into operation . . . . . 9th *July* 1979

The Department of Manpower Services, after consultation with the Health and Safety Agency for Northern Ireland and such other bodies as appeared to it to be appropriate, in exercise of the powers conferred on it by Articles 17(1) and (3)(*a*) and 55(2) of the Health and Safety at Work (Northern Ireland) Order 1978(a) and of every other power enabling it in that behalf, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Employment Medical Advisory Service (Factories Act Legislation Amendment) Regulations (Northern Ireland) 1979 and shall come into operation on 9th July 1979.

Amendment of instruments

2. Subject to the provisions of Part III of the Schedule, in the instruments mentioned in the first column of Part II of the Schedule there shall be made the amendments specified in relation to them in the second column of that Part.

Sealed with the Official Seal of the Department of Manpower Services for Northern Ireland on 4th June 1979.

(L.S.) *D. J. Perham*
Senior Assistant Secretary

(a) S.I. 1978/1039 (N.I. 9)—brought into operation by S.R. 1978 No. 384 (C. 21)

SCHEDULE Regulation 2

Amendment of Instruments

PART 1

New Definitions

The new definitions mentioned in Part II of this Schedule are as follows:—

"appointed doctor" means a fully registered medical practitioner appointed by written certificate (of an employment medical adviser who is authorised to act in that behalf by the Department of Manpower Services under Article 48(5) of the Health and Safety at Work (Northern Ireland) Order 1978) for such of the purposes of these Regulations as are specified in the certificate.

"employment medical adviser" means an employment medical adviser appointed under Article 48 of the Health and Safety at Work (Northern Ireland) Order 1978.

PART II

Amendments

Instrument	*Amendment*
Regulations, dated 21st January 1907, with respect to the manufacture of paints and colours, S.R. & O. 1907/17 (Rev. VII, p. 400: 1907, p. 139).	The new definitions set out in Part I of this Schedule shall be inserted at the end of the existing definitions. For references to the certifying or appointed surgeon, wherever they occur, there shall be substituted references to "an employment medical adviser or an appointed doctor". In Regulation 4, the second paragraph shall be deleted. For Regulation 5, there shall be substituted:— "5. A person employed, in respect of whom an employment medical adviser or an appointed doctor has, to the knowledge of the occupier or his agent, by signed and dated entry in the health register recorded his opinion that the continued employment of that person in a lead process or at the roller mills would involve special danger to his health, shall not be employed in any such process or place unless that entry has been cancelled by a further entry made by an employment medical adviser or an appointed doctor." For Regulation 12, there shall be substituted:— "12. No person shall work in a lead process or at the roller mills while it is to his knowledge unlawful under Regulation 5 for him to be employed in such a process or place."

Instrument	*Amendment*
Regulations, dated 6th August 1907, with respect to the process of the manipulation of yarn dyed by means of a lead compound, S.R. & O. 1907/616 (Rev. VII, p. 472: 1907, p. 142).	The definitions of "surgeon" and "suspension" shall be deleted. The new definitions set out in Part I of this Schedule shall be inserted at the end of the existing definitions. For other references to the surgeon, wherever they occur, there shall be substituted references to "an employment medical adviser or an appointed doctor". In Regulation 4, for the second paragraph there shall be substituted:— "A person employed, in respect of whom an employment medical adviser or an appointed doctor has, to the knowledge of the occupier or his agent, by signed and dated entry in the health register recorded his opinion that the continued employment of that person in the heading of yarn dyed by means of a lead compound would involve special danger to his health, shall not be employed in any such process unless that entry has been cancelled by a further entry made by an employment medical adviser or an appointed doctor." In Regulation 8, for paragraph (*a*) there shall be substituted:— "(*a*) work in the heading of yarn dyed by means of a lead compound while it is to his knowledge unlawful under Regulation 4 for him to be employed in such a process."
Regulations, dated 18th December 1908, with respect to the process of vitreous enamelling of metal or glass, S.R. & O. 1908/1258 (Rev. VII, p. 312: 1908, p. 336).	The definitions of "surgeon" and "suspension" shall be deleted. The new definitions set out in Part I of this Schedule shall be inserted at the end of the existing definitions. For other references to the surgeon, wherever they occur, there shall be substituted references to "an employment medical adviser or an appointed doctor". For Regulation 10, there shall be substituted:— "10. A person employed, in respect of whom an employment medical adviser or an appointed doctor has, to the knowledge of the occupier or his agent, by signed and dated entry in the health

Instrument	*Amendment*
	register recorded his opinion that the continued employment of that person in an enamelling process would involve special danger to his health, shall not be employed in any such process unless that entry has been cancelled by a further entry made by an employment medical adviser or an appointed doctor." In Regulation 15, for paragraph (*a*) there shall be substituted:— "(*a*) work in any enamelling process while it is to his knowledge unlawful under Regulation 10 for him to be employed in such a process;"
Regulations, dated 30th June 1909, with respect to the coating of metal articles with a mixture of tin and lead, or lead alone, S.R. & O. 1909/720 (Rev. VII, p. 455: 1909, p. 301).	The definitions of "surgeon" and "suspension" shall be deleted. The new definitions set out in Part I of this Schedule shall be inserted at the end of the existing definitions. For other references to the surgeon, wherever they occur, there shall be substituted references to "an employment medical adviser or an appointed doctor". In Regulation 6, for the second paragraph there shall be substituted:— "A person employed, in respect of whom an employment medical adviser or an appointed doctor has, to the knowledge of the occupier or his agent, by signed and dated entry in the health register recorded his opinion that the continued employment of that person in tinning would involve special danger to his health, shall not be employed in any such process unless that entry has been cancelled by a further entry made by an employment medical adviser or an appointed doctor." In Regulation 11, for paragraph (*a*) there shall be substituted:— "(*a*) work in tinning while it is to his knowledge unlawful under Regulation 6 for him to be employed in such a process;"
Regulations, dated 12th August 1911, with respect to the smelting and manufacture of lead and flaked litharge, S.R. & O. 1907/17 (Rev. VII, p. 369: 1911, p. 55).	The definitions of "surgeon" and "suspension" shall be deleted. The new definitions set out in Part I of this Schedule shall be inserted at the end of the existing definitions.

Instrument	*Amendment*
	For other references to the surgeon, wherever they occur, there shall be substituted references to "an employment medical adviser or an appointed doctor". In Regulation 13, for paragraph (*c*) there shall be substituted:— "(*c*) A person employed, in respect of whom an employment medical adviser or an appointed doctor has, to the knowledge of the occupier or his agent, by signed and dated entry in the health register recorded his opinion that the continued employment of that person in any lead process would involve special danger to his health, shall not be employed in any such process unless that entry has been cancelled by a further entry made by an employment medical adviser or an appointed doctor." For Regulation 18, there shall be substituted:— "18. No person shall work in a lead process while it is to his knowledge unlawful under Regulation 13 for him to be employed in such a process."
Regulations, dated 2nd January 1913, with respect to the manufacture and decoration of pottery, S.R. & O. 1913/2 (Rev. VII, p. 408: 1913, p. 131).	The definition of "surgeon" shall be deleted. The new definitions set out in Part I of this Schedule shall be inserted at the end of the existing definitions. For other references to the surgeon wherever they occur, there shall be substituted references to "an employment medical adviser or an appointed doctor". The definition of "suspension" shall be deleted. For the existing definition of "permission to work" there shall be substituted:— "'Permission to work' means permission by signed certificate of an employment medical adviser or appointed doctor permitting on medical grounds employment of a certain specified kind." In Regulation 1, paragraph (*d*) the words "for more than seven days" shall be deleted. In Regulation 2, paragraph (*b*) shall be deleted.

Instrument	*Amendment*
Regulations, dated 23rd August 1921, with respect to the manufacture of any carbonate, sulphate, nitrate or acetate of lead, S.R. & O. 1921/1443 (Rev. VII, p. 374: 1921, p. 246).	In Regulation 2, the second sentence of paragraph (*e*) shall be deleted. In Regulation 2, paragraph (*h*) the words "after suspension" shall be deleted. In Regulation 3, paragraph (*c*) the words "suspension or" shall be deleted. In Regulation 29, paragraph (*b*) the words "after suspension" shall be deleted. The definitions of "surgeon" and "suspension" shall be deleted. The new definitions set out in Part I of this Schedule shall be inserted at the end of the existing definitions. For other references to the surgeon, wherever they occur, there shall be substituted references to "an employment medical adviser or an appointed doctor". In Regulation 11:— (*a*) in paragraph (*a*) the words from "who shall have the power" to the end of the paragraph shall be deleted; and (*b*) for paragraph (*b*), there shall be substituted:— "(*b*) A person employed, in respect of whom an employment medical adviser or an appointed doctor has, to the knowledge of the occupier or his agent, by signed and dated entry in the health register recorded his opinion that the continued employment of that person in any lead process would involve special danger to his health, shall not be employed in any such process unless that entry has been cancelled by a further entry made by an employment medical adviser or an appointed doctor." For Regulation 24, there shall be substituted:— "24. No person shall work in a lead process while it is to his knowledge unlawful under Regulation 11 for him to be employed in such a process."
Order, dated 8th November 1921, with respect to the employment of women and young persons in certain processes involving the use of a lead compound, S.R. & O. 1921/1714 (Rev. VII, p. 533: 1921, p. 252).	For references to the surgeon or certifying surgeon, wherever they occur and however expressed, there shall be substituted references to "an employment medical adviser or an appointed doctor".

Instrument	*Amendment*
	In Article 2, for the words "particulars of any directions given by him" there shall be substituted "particulars of any opinion formed by him that the continued employment in a lead process of the person examined would involve special danger to her or his health".
	For Article 3, there shall be substituted a new Article 3 containing the new definitions set out in Part I of this Schedule, except that in the definition of "appointed doctor" the words "this Order" shall be substituted for "these Regulations".
Chemical Works Regulations (Northern Ireland) 1922, S.R. & O. (N.I.) 1922 No. 66 (p. 41).	The definitions of "surgeon" and "suspension" shall be deleted.
	The new definitions set out in Part I of this Schedule shall be inserted at the end of the existing definitions.
	For other references to the surgeon, wherever they occur, there shall be substituted references to "an employment medical adviser or an appointed doctor".
	In Regulation 30, for paragraph (*e*) there shall be substituted:— "(*e*) A person employed, in respect of whom an employment medical adviser or an appointed doctor has, to the knowledge of the occupier or his agent, by signed and dated entry in the health register recorded his opinion that the continued employment of that person in any chrome process or in any nitro or amido process would involve special danger to his health, shall not be employed in any such process unless that entry has been cancelled by a further entry made by an employment medical adviser or an appointed doctor."
Lead Paint Regulations (Northern Ireland) 1927, S.R. & O. (N.I.) 1927 No. 129 (p. 93).	In Regulation 6:— (*a*) after the words "make arrangements for the periodic examination", there shall be inserted "by an employment medical adviser or an appointed doctor"; and (*b*) at the end, there shall be inserted the new definitions set out in Part I of this Schedule.
Vehicle Painting Regulations (Northern Ireland) 1928, S.R. & O. (N.I.) 1928 No. 19 (p. 64).	The new definitions set out in Part I of this Schedule shall be inserted at the end of the existing definitions.

Instrument	*Amendment*
	In Regulation 9, for the reference to the certifying factory surgeon for the district or a duly qualified medical practitioner appointed by written certificate by the Ministry, there shall be substituted a reference to "an employment medical adviser or an appointed doctor".
Electric Accumulator Special Regulations (Northern Ireland) 1945, S.R. & O. (N.I.) 1945 No. 41 (p. 56).	The definitions of "surgeon" and "suspension" shall be deleted. The new definitions set out in Part I of this Schedule shall be inserted at the end of the existing definitions. For other references to the surgeon, wherever they occur, there shall be substituted references to "an employment medical adviser or an appointed doctor". In Regulation 19, paragraph (1) the following words shall be deleted:— "and the surgeon shall have the power of suspension as respects any person examined by him." In Regulation 19, for paragraph (3) there shall be substituted:— "(3) A person employed, in respect of whom an employment medical adviser or an appointed doctor has, to the knowledge of the occupier or his agent, by signed and dated entry, in the health register recorded his opinion that the continued employment of that person in a lead process would involve special danger to his health, shall not be employed in any such process unless that entry has been cancelled by a further entry made by an employment medical adviser or an appointed doctor." For Regulation 28, there shall be substituted:— "28.—No person shall work in a lead process while it is to his knowledge unlawful under Regulation 19 for him to be employed in such a process."
Diving Operations Special Regulations (Northern Ireland) 1963, S.R. & O. (N.I.) 1963 No. 84 (p. 294).	In Regulation 3:— (*a*) the definition of "appointed doctor" shall be deleted; and (*b*) the new definitions set out in Part I of this Schedule shall be inserted in place thereof.

Instrument	*Amendment*
	In Regulation 9, for references to the appointed doctor, wherever they occur, there shall be substituted references to "an employment medical adviser or an appointed doctor".
The Work in Compressed Air Special Regulations (Northern Ireland) 1963, S.R. & O. (N.I.) 1963 No. 85 (p. 299).	In Regulation 3:— (*a*) the definition of "appointed doctor" shall be deleted; and (*b*) the new definitions set out in Part I of this Schedule shall be inserted in place thereof. For other references to the appointed doctor, wherever they occur, there shall be substituted references to "an employment medical adviser or an appointed doctor".
Lead Processes (Medical Examinations) Regulations (Northern Ireland) 1965, S.R. & O. (N.I.) 1965 No. 187 (p. 639).	In Regulation 2 for the definition of "approved" there shall be substituted:— " "approved" means approved for the time being by certificate of an employment medical adviser who is authorised by the Department of Manpower Services under Article 48(5) of the Health and Safety at Work (Northern Ireland) Order 1978;"
Carcinogenic Substances Regulations (Northern Ireland) 1967, S.R. & O. (N.I.) 1967 No. 266 (p. 943).	In Regulation 2:— (*a*) the definition of "appointed doctor" shall be deleted; and (*b*) the new definitions set out in Part I of this Schedule shall be inserted in place thereof. In Regulation 8:— (*a*) for references to the appointed doctor, wherever they occur, there shall be substituted references to "an employment medical adviser or an appointed doctor"; and (*b*) in paragraph (3), for the words "Except where otherwise authorised or directed in writing by the Chief Inspector" there shall be substituted "Except where the occupier is otherwise directed in writing by an employment medical adviser or an appointed doctor".
Ionising Radiations (Sealed Sources) Regulations (Northern Ireland) 1969, S.R. & O. (N.I.) 1969 No. 318 (p. 1465).	In Regulation 2:— (*a*) the definition of "appointed doctor" shall be deleted; (*b*) the new definitions set out in Part I of this Schedule shall be inserted in place thereof; and (*c*) for the definition of "approved" there shall be substituted:— " "approved" means:—

Instrument	*Amendment*
	(i) in Regulation 29(2), approved for the time being for the purposes of these Regulations by certificate of an employment medical adviser who is authorised by the Department of Manpower Services under Article 48(5) of the Health and Safety at Work (Northern Ireland) Order 1978; and (ii) elsewhere, approved for the time being for the purposes of these Regulations by certificate of an inspector appointed by the Department of Manpower Services under Article 21 of the Health and Safety at Work (Northern Ireland) Order 1978 who is authorised to act for this purpose." For other references to the doctor or appointed doctor wherever they occur, there shall be substituted references to "an employment medical adviser or an appointed doctor". In Regulation 17, paragraph (*b*) shall be deleted. In Regulation 28, for paragraph (1) there shall be substituted:— "(1) Except where the occupier is otherwise directed in writing by an employment medical adviser or an appointed doctor, any medical examination by an employment medical adviser or an appointed doctor for the purposes of these Regulations shall take place at the factory." For Regulation 30, there shall be substituted:— *"Notice of unfitness for certain employments* 30.—(1) A person employed, in respect of whom an employment medical adviser or an appointed doctor has to the knowledge of the occupier or his agent, by signed and dated entry in the health register recorded his opinion that the continued employment of that person in work as a classified worker or in a radiation area would involve special danger to his health shall not be employed in any such work unless that entry has been cancelled by a further entry made by an employment medical adviser or an appointed doctor, and no person shall perform any such work while it is to his knowledge unlawful under this paragraph for him to be employed in such work.

Instrument	*Amendment*
	(2) The occupier shall forthwith notify an inspector, appointed by the Department of Manpower Services under Article 21 of the Health and Safety at Work (Northern Ireland) Order 1978 who is authorised to act for this purpose, of the making of any entry by an employment medical adviser or an appointed doctor recording his opinion as aforesaid."

PART III

Transitional Provisions

1. These regulations shall not affect the validity of anything done before the coming into operation of these regulations by or in relation to a medical practitioner acting for the purposes of any instrument amended by these regulations.

2. A person, for whom it is unlawful immediately before the coming into operation of these regulations to be employed or work in employment of any description in consequence of having been suspended from such employment in pursuance of a provision amended by these regulations, shall not be employed or work in such employment unless an employment medical adviser or an appointed doctor as defined in Part I of this Schedule has certified that that person is fit for such employment.

3. A medical practitioner who immediately before the coming into operation of these regulations is a person authorised by the Chief Inspector of Factories under any of the instruments specified in Part II of this Schedule to perform functions for the purposes of those instruments shall be deemed for those purposes to be an appointed doctor as defined in Part I of this Schedule until that authority is revoked under this paragraph by an employment medical adviser.

4. Certificates of approval given before the coming into operation of these regulations by the Chief Inspector of Factories for the purposes of the Lead Processes (Medical Examinations) Regulations (Northern Ireland) 1965 and Regulation 29(2) of the Ionising Radiations (Sealed Sources) Regulations (Northern Ireland) 1969 shall remain in force until revoked under this paragraph by certificate of the employment medical adviser.

EXPLANATORY NOTE

(This note is not part of the regulations, but is intended to indicate their general purport)

These regulations make amendments to the instruments under the Factories Act (Northern Ireland) 1965 specified in the Schedule herein which are necessary or expedient in consequence of Part III of the Health and Safety at Work (Northern Ireland) Order 1978.

They provide that medical examinations of persons employed and related functions under the instruments specified shall be performed by fully registered medical practitioners appointed in accordance with the provisions of the Health and Safety at Work (Northern Ireland) Order 1978.

They also change the procedure by which the employment of any person in certain processes mentioned in the said instruments may be prohibited where the doctor examining that person is of the opinion that the continued employment of that person in that process would involve special danger to his health.