

PAINT (NEW GUINEA) REGULATIONS, 1951.⁽¹⁾

Regulations.

No. 27 of 1951.

1. These Regulations may be cited as the *Paint (New Guinea) Regulations, 1951.*⁽¹⁾

(1) Particulars of these Regulations are as follows:—

Ordinance under which made.	Date on which made by Administrator in Council.	Date on which published in Papua and N.G. Govt. Gaz.	Date on which took effect and came into operation.
<i>Public Health Ordinance 1932-1938</i> ..	22.11.1951	29.11.1951	"forthwith" ^(a)

(a) These Regulations stated in their introductory part that they were "to come into operation forthwith". At the relevant dates in 1951, the *Public Health Ordinance, 1932-1938* (under which these Regulations were made) made no provision as to the date of commencement of regulations made thereunder but Section 37 (1) of the *Ordinances Interpretation Ordinance 1949-1951* of the Territory of Papua and New Guinea provided that "Regulations . . . made . . . under an Ordinance, unless the contrary intention appears in the Ordinance—

(a) shall be published in the *Gazette*; and

(b) shall . . . take effect from the date of publication, or where another date is specified in the regulations, from the date specified."

At the relevant dates in 1951, there was no Ordinance or regulation of general application providing for the meaning of "forthwith".

2. In these Regulations unless the contrary intention appears—
“Director” means the Director of Public Health for the Territory;
“Paint” shall without limiting the ordinary meaning, include any substance of any kind whatsoever used or intended to be used for application as a colouring or protective coating to any surface: the term includes oil paint, water paint, enamel and distemper, and any substance of any kind whatsoever used in the composition of any paint.

3. No person shall use or put any paint containing more than five per centum of soluble lead upon—

- (a) any verandah wall, verandah palisade, verandah post, verandah floor, verandah rail, verandah door, verandah gate, verandah blind, or any steps, baluster, handrail, or lattice of any house or building whatsoever; or
- (b) any fence or gate whatsoever; or
- (c) any other exterior portion whatsoever of any house, hall, school, or other building to which portion children under the age of fourteen years have easy access.

In any prosecution under this regulation the burden of proof that children under the age of fourteen years have not access to any such exterior portion as mentioned in paragraph (c) hereof shall in every case be on the defendant.

4. No person shall use or put on the roof of any house or building paint containing any lead.

5. For the purposes of these regulations any Officer authorized by the Director in that behalf may—

- (a) enter any premises or place and inspect any house, hall, school, or other building or any part thereof as indicated in Regulations 2 and 3 hereof, or any other surface of any kind whatsoever as aforesaid;
- (b) remove for examination or analysis a sample or samples of any paint adhering to any such house, hall, school or other building, or any such part thereof as aforesaid, or adhering to any other surface as aforesaid;
- (c) remove for examination or analysis a sample or samples of any paint which is being used by any person on any such premises or place for painting any of the exterior surfaces of any house, hall, school, or other building as aforesaid, or for painting any other surface indicated in Regulations 2, 3 and 4 hereof.

6. Whenever it is proved to the satisfaction of the Director that any surface of any house, building, fence or gate, or any part thereof as indicated in regulations 2 and 3 hereof, has upon it paint containing more than five parts per centum of soluble lead, he may by notice in writing to the owner of any such premises or place require that any such painted surface as aforesaid shall be cleaned down and all such paint removed therefrom within the time stated in such notice.

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Any person who fails to comply with the provisions of any such notice of the Director within the time stated therein shall be guilty of an offence and shall be liable upon conviction to a penalty not exceeding Fifty pounds.

Such provision shall obtain and have effect whether or not any such painted surface as aforesaid was painted with paint containing more than five parts per centum of soluble lead prior to the coming into force of these regulations.

7. "Soluble lead" means the lead compound which is dissolved upon paint being treated with the prescribed solvent by the prescribed method of testing.

For the purpose of calculating the percentage as aforesaid, the soluble lead shall be calculated as a percentage of lead monoxide on the dry substance of the paint free from varnish, size, or similar material.

8. There shall be supplied on or attached to every package of paint packed or enclosed for sale a label indicating the trade name or description, the net weight or true measure or volume of the contents thereof, the name and address of the vendor or maker of such contents, and containing a statement of the ingredients and the percentage proportions of the same in such paint.

The statement of ingredients shall be written in bold-faced sans-serifs capital letters of not less than eight points face measurement in the following form:—

This paint consists of (*or alternatively*) the contents of this package consist of (*herein insert the name or names of ingredients and the quantity or percentage proportion to each contained in the paint*).

No person shall sell in a package any paint unless such a label is supplied on or attached to every such package:

Provided that paint shall not be deemed to be falsely described or labelled if the actual weight or true measure or volume of any constituent of the liquid does not vary by more than ten per cent. from the weight, measure, or volume of the proportion of such constituent declared to be present.

9. Where any person (herein called "the contractor") undertakes or contracts with another person to paint any premises owned or occupied by such other person, such contractor shall not, without the knowledge and consent of such other person, use in the mixing and/or application of such paint any barytes or whiting or other deleterious substance or ingredient of inferior quality.

Any person offending against the provisions of this regulation shall on conviction be liable to a penalty not exceeding Fifty pounds.

The provisions of this regulation shall not prejudice or affect any civil remedy which such other person may have in the circumstances against the contractor.

10. If any person contravenes or does not comply with or is guilty of an offence against any provision of these regulations and no penalty is expressly provided in that behalf, he shall be liable for the first offence

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to a penalty not exceeding Twenty pounds, and for a second offence in respect of the same provision to a penalty of not less than Ten pounds not exceeding Fifty pounds, and for any subsequent offence in respect of the same provision to a penalty of not less than Thirty pounds not exceeding One hundred pounds.