1992 No. 459

HEALTH AND SAFETY

Management of Health and Safety at Work Regulations (Northern Ireland) 1992

Made . . . . . *26th October 1992*

Coming into operation . . *1st January 1993*

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The Department of Agriculture, the Department of Economic Development and the Department of the Environment, acting jointly as the Department concerned(**a**), in exercise of the powers conferred by Articles 2(5), 17(1), (2) and (5) and 43(2) of, and paragraphs 5(1), 6, 7(1), 13, 14(1) and 15 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**b**) and of every other power enabling them in that behalf, after consultation in accordance with Article 46(1) of that Order with the Health

(**a**) *See* Article 2(*a*) of S.I. 1978/1039 (N.I. 9)
(**b**) S.I. 1978/1039 (N.I. 9)

and Safety Agency for Northern Ireland and such other bodies as appeared to them to be appropriate, hereby make the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Management of Health and Safety at Work Regulations (Northern Ireland) 1992 and shall come into operation on 1st January 1993.

(2) In these Regulations—

"the assessment" means, in the case of an employer, the assessment made by him in accordance with regulation 3(1) and changed by him where necessary in accordance with regulation 3(3); and, in the case of a self-employed person, the assessment made by him in accordance with regulation 3(2) and changed by him where necessary in accordance with regulation 3(3);

"employment business" means a business (whether or not carried on with a view to profit and whether or not carried on in conjunction with any other business) which supplies persons (other than seafarers) who are employed in it to work for and under the control of other persons in any capacity;

"fixed-term contract of employment" means a contract of employment for a specific term which is fixed in advance or which can be ascertained in advance by reference to some relevant circumstance; and

"the preventive and protective measures" means the measures which have been identified by the employer or by the self-employed person in consequence of the assessment as the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions.

Disapplication of these Regulations

2. These Regulations shall not apply to or in relation to the master or crew of a sea-going ship or to the employer of such persons in respect of the normal ship-board activities of a ship's crew under the direction of the master.

Risk assessment

3.—(1) Every employer shall make a suitable and sufficient assessment of—

(*a*) the risks to the health and safety of his employees to which they are exposed whilst they are at work; and

(*b*) the risks to the health and safety of persons not in his employment arising out of or in connection with the conduct by him of his undertaking,

for the purpose of identifying the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions.

(2) Every self-employed person shall make a suitable and sufficient assessment of—

(*a*) the risks to his own health and safety to which he is exposed whilst he is at work; and

(*b*) the risks to the health and safety of persons not in his employment arising out of or in connection with the conduct by him of his undertaking,

for the purpose of identifying the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions.

(3) Any assessment such as is referred to in paragraph (1) or (2) shall be reviewed by the employer or self-employed person who made it if—

(*a*) there is reason to suspect that it is no longer valid; or

(*b*) there has been a significant change in the matters to which it relates;

and where as a result of any such review changes to an assessment are required, the employer or self-employed person concerned shall make them.

(4) Where the employer employs five or more employees, he shall record—

(*a*) the significant findings of the assessment; and

(*b*) any group of his employees identified by it as being especially at risk.

Health and safety arrangements

4.—(1) Every employer shall make and give effect to such arrangements as are appropriate, having regard to the nature of his activities and the size of his undertaking, for the effective planning, organisation, control, monitoring and review of the preventive and protective measures.

(2) Where the employer employs five or more employees, he shall record the arrangements referred to in paragraph (1).

Health surveillance

5. Every employer shall ensure that his employees are provided with such health surveillance as is appropriate having regard to the risks to their health and safety which are identified by the assessment.

Health and safety assistance

6.—(1) Every employer shall, subject to paragraphs (6) and (7), appoint one or more competent persons to assist him in undertaking the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions.

(2) Where an employer appoints persons in accordance with paragraph (1), he shall make arrangements for ensuring adequate co-operation between them.

(3) The employer shall ensure that the number of persons appointed under paragraph (1), the time available for them to fulfil their functions and the means at their disposal are adequate having regard to the size of his undertaking, the risks to which his employees are exposed and the distribution of those risks throughout the undertaking.

(4) The employer shall ensure that—

(*a*) any person appointed by him in accordance with paragraph (1) who is not in his employment—

(i) is informed of the factors known by him to affect, or suspected by him of affecting, the health and safety of any other person who may be affected by the conduct of his undertaking, and

(ii) has access to the information referred to in regulation 8; and

(*b*) any person appointed by him in accordance with paragraph (1) is given such information about any person working in his undertaking who is—

(i) employed by him under a fixed-term contract of employment, or

(ii) employed in an employment business,

as is necessary to enable that person properly to carry out the function specified in that paragraph.

(5) A person shall be regarded as competent for the purposes of paragraph (1) where he has sufficient training and experience or knowledge and other qualities to enable him properly to assist in undertaking the measures referred to in that paragraph.

(6) Paragraph (1) shall not apply to a self-employed employer who is not in partnership with any other person where he has sufficient training and experience or knowledge and other qualities properly to undertake the measures referred to in that paragraph himself.

(7) Paragraph (1) shall not apply to individuals who are employers and who are together carrying on business in partnership where at least one of the individuals concerned has sufficient training and experience or knowledge and other qualities—

(*a*) properly to undertake the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions; and

(*b*) properly to assist his fellow partners in undertaking the measures they need to take to comply with the requirements and prohibitions imposed upon them by or under the relevant statutory provisions.

Procedures for serious and imminent danger and for danger areas

7.—(1) Every employer shall—

(*a*) establish and where necessary give effect to appropriate procedures to be followed in the event of serious and imminent danger to persons at work in his undertaking;

(*b*) nominate a sufficient number of competent persons to implement those procedures insofar as they relate to the evacuation from premises of persons at work in his undertaking; and

(*c*) ensure that none of his employees has access to any area occupied by him to which it is necessary to restrict access on grounds of health and safety unless the employee concerned has received adequate health and safety instruction.

(2) Without prejudice to the generality of paragraph (1)(*a*), the procedures referred to in that sub-paragraph shall—

(*a*) so far as is practicable, require any persons at work who are exposed to serious and imminent danger to be informed of the nature of the hazard and of the steps taken or to be taken to protect them from it;

(*b*) enable the persons concerned (if necessary by taking appropriate steps in the absence of guidance or instruction and in the light of their knowledge and the technical means at their disposal) to stop work and immediately proceed to a place of safety in the event of their being exposed to serious, imminent and unavoidable danger; and

(*c*) save in exceptional cases for reasons duly substantiated (which cases and reasons shall be specified in those procedures), require the persons concerned to be prevented from resuming work in any situation where there is still a serious and imminent danger.

(3) A person shall be regarded as competent for the purposes of paragraph (1)(*b*) where he has sufficient training and experience or knowledge and other qualities to enable him properly to implement the evacuation procedures referred to in that sub-paragraph.

Information for employees

8. Every employer shall provide his employees with comprehensible and relevant information on—

(*a*) the risks to their health and safety identified by the assessment;

(*b*) the preventive and protective measures;

(*c*) the procedures referred to in regulation 7(1)(*a*);

(*d*) the identity of those persons nominated by him in accordance with regulation 7(1)(*b*); and

(*e*) the risks notified to him in accordance with regulation 9(1)(*c*).

Co-operation and co-ordination

9.—(1) Where two or more employers share a workplace (whether on a temporary or a permanent basis) each such employer shall—

(*a*) co-operate with the other employers concerned so far as is necessary to enable them to comply with the requirements and prohibitions imposed upon them by or under the relevant statutory provisions;

(*b*) (taking into account the nature of his activities) take all reasonable steps to co-ordinate the measures he takes to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions with the measures the other employers concerned are taking to comply with the requirements and prohibitions imposed upon them by or under the relevant statutory provisions; and

(*c*) take all reasonable steps to inform the other employers concerned of the risks to their employees' health and safety arising out of or in connection with the conduct by him of his undertaking.

(2) Paragraph (1) shall apply to employers sharing a workplace with self-employed persons and to self-employed persons sharing a workplace with other self-employed persons as it applies to employers sharing a workplace with other employers; and the references in that paragraph to employers and the reference in the said paragraph to their employees shall be construed accordingly.

Persons working in host employers' or self-employed persons' undertakings

10.—(1) Every employer and every self-employed person shall ensure that the employer of any employees from an outside undertaking who are working in his undertaking is provided with comprehensible information on—

(*a*) the risks to those employees' health and safety arising out of or in connection with the conduct by that first-mentioned employer or by that self-employed person of his undertaking; and

(*b*) the measures taken by that first-mentioned employer or by that self-employed person in compliance with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions insofar as the said requirements and prohibitions relate to those employees.

(2) Paragraph (1) shall apply to a self-employed person who is working in the undertaking of an employer or a self-employed person as it applies to employees from an outside undertaking who are working therein; and the reference in that paragraph to the employer of any employees from an outside undertaking who are working in the undertaking of an employer or a self-employed person and the references in the said paragraph to employees from an outside undertaking who are working in the undertaking of an employer or a self-employed person shall be construed accordingly.

(3) Every employer shall ensure that any person working in his undertaking who is not his employee and every self-employed person (not being an employer) shall ensure that any person working in his undertaking is provided with appropriate instructions and comprehensible information regarding any risks to that person's health and safety which arise out of the conduct by that employer or self-employed person of his undertaking.

(4) Every employer shall—

(*a*) ensure that the employer of any employees from an outside undertaking who are working in his undertaking is provided with sufficient information to enable that second-mentioned employer to identify any person nominated by that first-mentioned employer in accordance with regulation 7(1)(*b*) to implement evacuation procedures as far as those employees are concerned; and

(*b*) take all reasonable steps to ensure that any employees from an outside undertaking who are working in his undertaking receive sufficient information to enable them to identify any person nominated by him in accordance with regulation 7(1)(*b*) to implement evacuation procedures as far as they are concerned.

(5) Paragraph (4) shall apply to a self-employed person who is working in an employer's undertaking as it applies to employees from an outside undertaking who are working therein; and the reference in that paragraph to the employer of any employees from an outside undertaking who are working in an employer's undertaking and the references in the said paragraph to employees from an outside undertaking who are working in an employer's undertaking shall be construed accordingly.

Capabilities and training

11.—(1) Every employer shall, in entrusting tasks to his employees, take into account their capabilities as regards health and safety.

(2) Every employer shall ensure that his employees are provided with adequate health and safety training—

(*a*) on their being recruited into the employer's undertaking; and

(*b*) on their being exposed to new or increased risks because of—

(i) their being transferred or given a change of responsibilities within the employer's undertaking,

(ii) the introduction of new work equipment into or a change respecting work equipment already in use within the employer's undertaking,

(iii) the introduction of new technology into the employer's undertaking, or

(iv) the introduction of a new system of work into or a change respecting a system of work already in use within the employer's undertaking.

(3) The training referred to in paragraph (2) shall—

(*a*) be repeated periodically where appropriate;

(*b*) be adapted to take account of any new or changed risks to the health and safety of the employees concerned; and

(*c*) take place during working hours.

Employees' duties

12.—(1) Every employee shall use any machinery, equipment, dangerous substance, transport equipment, means of production or safety device provided to him by his employer in accordance both with any training in the use of the equipment concerned which has been received by him and the instructions respecting that use which have been provided to him by the said employer in compliance with the requirements and prohibitions imposed upon that employer by or under the relevant statutory provisions.

(2) Every employee shall inform his employer or any other employee of that employer with specific responsibility for the health and safety of his fellow employees—

(*a*) of any work situation which a person with the first-mentioned employee's training and instruction would reasonably consider represented a serious and immediate danger to health and safety; and

(*b*) of any matter which a person with the first-mentioned employee's training and instruction would reasonably consider represented a shortcoming in the employer's protection arrangements for health and safety,

insofar as that situation or matter either affects the health and safety of that first-mentioned employee or arises out of or in connection with his own activities at work, and has not previously been reported to his employer or to any other employee of that employer in accordance with this paragraph.

Temporary workers

13.—(1) Every employer shall provide any person whom he has employed under a fixed-term contract of employment with comprehensible information on—

(*a*) any special occupational qualifications or skills required to be held by that employee if he is to carry out his work safely; and

(*b*) any health surveillance required to be provided to that employee by or under any of the relevant statutory provisions,

and shall provide the said information before the employee concerned commences his duties.

(2) Every employer and every self-employed person shall provide any person employed in an employment business who is to carry out work in his undertaking with comprehensible information on—

(*a*) any special occupational qualifications or skills required to be held by that employee if he is to carry out his work safely; and

(*b*) any health surveillance required to be provided to that employee by or under any of the relevant statutory provisions

(3) Every employer and every self-employed person shall ensure that every person carrying on an employment business whose employees are to carry out work in his undertaking is provided with comprehensible information on—

(*a*) any special occupational qualifications or skills required to be held by those employees if they are to carry out their work safely; and

(*b*) the specific features of the jobs to be filled by those employees (insofar as those features are likely to affect their health and safety);

and the person carrying on the employment business concerned shall ensure that the information so provided is given to the said employees.

Exemption certificates

14.—(1) The Secretary of State for Defence may, in the interests of national security, by a certificate in writing exempt—

(*a*) any of the home forces, any visiting force or any headquarters from those requirements of these Regulations which impose obligations on employers; or

(*b*) any member of the home forces, any member of a visiting force or any member of a headquarters from the requirements imposed by regulation 12;

and any exemption such as is specified in sub-paragraph (*a*) or (*b*) may be granted subject to conditions and to a limit of time and may be revoked by the said Secretary of State by a further certificate in writing at any time.

(2) In this regulation—

(*a*) ''the home forces'' has the same meaning as in section 12(1) of the Visiting Forces Act 1952(**a**);

(*b*) ''headquarters'' has the same meaning as in Article 3(2) of the Visiting Forces and International Headquarters (Application of Law) Order 1965(**b**);

(*c*) ''member of a headquarters'' has the same meaning as in paragraph 1(1) of the Schedule to the International Headquarters and Defence Organisations Act 1964(**c**); and

(*d*) ''visiting force'' has the same meaning as it does for the purposes of any provision of Part I of the Visiting Forces Act 1952.

Exclusion of civil liability

15. Breach of a duty imposed by these Regulations shall not confer a right of action in any civil proceedings.

Modification of instrument

16. The Safety Representatives and Safety Committees Regulations (Northern Ireland) 1979(**d**) shall be modified to the extent specified in the Schedule.

Sealed with the Official Seal of the Department of Agriculture on 26th October 1992.

(L.S.) *I. C. Henderson*
Assistant Secretary

Sealed with the Official Seal of the Department of Economic Development on 26th October 1992.

(L.S.) *Philip B. Strong*
Assistant Secretary

Sealed with the Official Seal of the Department of the Environment on 26th October 1992.

(L.S.) *Trevor Pearson*
Assistant Secretary

(**a**) 1952 c. 67
(**b**) S.I. 1965/1536, to which there are amendments not relevant to these Regulations
(**c**) 1964 c. 5
(**d**) S.R. 1979 No. 437

THE SCHEDULE Regulation 16

The following regulation shall be inserted after regulation 4 of the Safety Representatives and Safety Committees Regulations (Northern Ireland) 1979—

"*Employer's duty to consult and provide facilities and assistance*

4A.—(1) Without prejudice to the generality of Article 4(5) of the Order of 1978, every employer shall consult safety representatives in good time with regard to—

(*a*) the introduction of any measure at the workplace which may substantially affect the health and safety of the employees the safety representatives concerned represent;

(*b*) his arrangements for appointing or, as the case may be, nominating persons in accordance with regulations 6(1) and 7(1)(*b*) of the Management of Health and Safety at Work Regulations (Northern Ireland) 1992;

(*c*) any health and safety information he is required to provide to the employees the safety representatives concerned represent by or under the relevant statutory provisions;

(*d*) the planning and organisation of any health and safety training he is required to provide to the employees the safety representatives concerned represent by or under the relevant statutory provisions; and

(*e*) the health and safety consequences for the employees the safety representatives concerned represent of the introduction (including the planning thereof) of new technologies into the workplace.

(2) Without prejudice to regulations 5 and 6 every employer shall provide such facilities and assistance as safety representatives may reasonably require for the purpose of carrying out their functions under Article 4(4) of the Order of 1978 and under these Regulations.".

EXPLANATORY NOTE

(This note is not part of the Regulations.)

1. These Regulations ("the Regulations") give effect as respects Northern Ireland (except to the extent specified below) to Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work (O.J. No. L193, 29.6.89, p. 1) ["the Framework Directive"] and to Council Directive 91/383/EEC supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship (O.J. No. L206, 29.7.91, p. 19) ["the Temporary Workers' Directive"].

2. The Regulations do not extend to sea transport (regulation 2).

3. Nor do the Regulations impose requirements with respect to the following matters:

(*a*) accident reporting (*Article 9(1)(c) and (d) and (2) of the Framework Directive*);

(*b*) charging of workers in respect of health and safety measures (*Article 6(5) of the Framework Directive*);

(*c*) consultation and participation of workers and workers' representatives (*Articles 10(3), 11(1), (3), (5) and (6) and 12(3) and (4) of the Framework Directive*);

(*d*) employees' general safety obligations (*Article 13(1) and (2)(e) and (f) of the Framework Directive*);

(*e*) employers' general safety obligations (*Articles 5 and 6(1) of the Framework Directive*);

(*f*) employment protection rights (*Articles 7(2), 8(4) and (5) and 11(4) of the Framework Directive*);

(*g*) fire fighting (*Articles 8(1) and (2) and 10(1) and (2) of the Framework Directive*);

(*h*) first-aid (*Articles 8(1) and (2) and 10(1) and (2) of the Framework Directive*);

(*i*) risk groups (*Article 15 of the Framework Directive*);

(*j*) use of personal protective equipment (*Article 13(2)(b) of the Framework Directive*); or

(*k*) responsibility of host undertakings to temporary workers (*Article 8 of the Temporary Workers' Directive*).

4. Regulation 3 requires employers and self-employed persons to make assessments of the health and safety risks to which their respective undertakings give rise, for the purpose of ascertaining what they have to do to comply with their obligations under health and safety legislation. Regulation 3 also makes provision for the review and recording of the results of risk assessments.

5. Regulation 4 requires employers to make, give effect to and in certain cases record appropriate health and safety arrangements.

6. Regulation 5 requires employers to ensure that their employees are provided with appropriate health surveillance.

7. Regulation 6 requires employers to appoint an adequate number of competent persons to assist them to comply with their obligations under health and safety legislation unless (in the case of a sole trader or a partnership) the employer concerned already has sufficient competence to comply with the relevant obligations without assistance. Regulation 6, as well as defining "competent person" in this context, also requires employers—

(*a*) to make arrangements for ensuring adequate co-operation between the competent persons they appoint; and

(*b*) to provide the competent persons they appoint with—

(i) the facilities necessary to enable them to carry out their functions, and

(i) specified health and safety information.

8. Regulation 7 requires employers—

(*a*) to establish and give effect to procedures to be followed in the event of serious and imminent danger to persons working in their respective undertakings;

(*b*) to nominate competent persons to implement those procedures insofar as they relate to the evacuation from premises of persons at work in their respective undertakings; and

(*c*) restrict access to any danger areas occupied by them.

Regulation 7 also specifies in detail what the procedures referred to above must achieve and defines what is meant by "competent person" in this context.

9. Regulation 8 requires employers to provide their employees with specified health and safety information.

10. Regulation 9 requires every employer and self-employed person who shares a workplace with any other employer or self-employed person to—

(*a*) co-operate with that other person so far as is necessary to enable him to comply with his statutory health and safety obligations;

(*b*) co-ordinate the measures he takes in compliance with his statutory health and safety obligations with the measures being taken in that regard by that other person; and

(*c*) take steps to provide that other person with specified health and safety information.

11. Regulation 10 requires employers and self-employed persons to ensure that—

(*a*) the employers of any employees from outside undertakings who are working in their respective undertakings are provided with specified health and safety information;

(*b*) self-employed persons who are working in their respective undertakings are provided with specified health and safety instructions and information; and

(*c*) any employees from outside undertakings who are working in their respective undertakings are provided with specified health and safety instructions and information.

12. Regulation 11 requires employers—

(*a*) to consider their employee's capabilities as regards health and safety when entrusting tasks to them; and

(*b*) to ensure that in specified circumstances their employees are provided with adequate health and safety training.

Regulation 11 also specifies when the training referred to above is to be provided and the circumstances in which it is to be repeated or adapted.

13. Regulation 12 requires employees—

(*a*) to use machinery, equipment, dangerous substances, transport equipment, means of production and safety devices in accordance with any relevant training and instructions; and

(*b*) to inform their respective employers or any specified fellow employees of dangerous work situations and shortcomings in those employers' health and safety arrangements.

14. Regulation 13—

(*a*) requires employers and self-employed persons to provide temporary workers in their respective undertakings with health and safety information before they commence their duties;

(*b*) requires employers and self-employed persons to provide any employment business whose employees are to carry out work in their respective undertakings with specified health and safety information about the work to be done by those employees; and

(*c*) requires any employment business provided with information by an employer or self-employed person in pursuance thereof to pass that information on to the employees to whom it relates.

15. Regulation 14 enables the Secretary of State for Defence to grant exemptions from the Regulations in the interests of national security.

16. Regulation 15 provides that breach of a duty imposed by the Regulations does not confer a right of action in civil proceedings.

17. Regulation 16 and the Schedule modify the Safety Representatives and Safety Committees Regulations (Northern Ireland) 1979 (S.R. 1979 No. 437) by inserting a new regulation therein, regulation 4A.

18. A Code of Practice approved by the Health and Safety Agency for Northern Ireland under Article 18(1) of the Health and Safety at Work (Northern Ireland) Order 1978 will be published and will give guidance on the Regulations. The Code of Practice may be purchased from HMSO Bookshop, 16 Arthur Street, Belfast BT1 4GD.

19. A person who contravenes the Regulations is guilty of an offence under Article 31 of the Health and Safety at Work (Northern Ireland) Order 1978.