STATUTORY RULES OF NORTHERN IRELAND

2000 No. 388

HEALTH AND SAFETY

Management of Health and Safety at Work Regulations (Northern Ireland) 2000

Made - - - - 11th December 2000

Coming into operation 1st February 2001

The Department of Enterprise, Trade and Investment, being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to measures relating to employers' obligations in respect of the health and safety of workers and in relation to measures relating to the minimum health and safety requirements for the workplace that relate to fire safety, in exercise of the powers conferred on it by the said section 2(2) and being the Department concerned(**3**), in exercise of the powers conferred on it by Articles 2(5), 17(1), (2), (3) and (5), 43(2), 54(1) and 55(2) of, and paragraphs 5(1), 6, 7(1), 8, 9, 11, 13, 14, 15 and 17(*a*) of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**4**) ("the 1978 Order") and of every other power enabling it in that behalf—

(a) for the purpose of giving effect without modifications to proposals submitted to it by the Health and Safety Executive for Northern Ireland under Article 13(1A)(**5**) of the 1978 Order after the carrying out by the Executive of consultations in accordance with Article 46(3)(**6**) of that Order; and

(b) it appearing to it that the modifications to the Regulations marked with an asterisk in Schedule 3 are expedient and it also appearing to it not to be appropriate to consult bodies in respect of such modifications in accordance with Article 54(5) of the 1978 Order,

hereby makes 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) 2000 and shall come into operation on 1st February 2001.

(2) In these Regulations—

(**1**) S.I. 1992/1711 and S.I. 1999/2027
(**2**) 1972 c. 68; the enabling powers conferred by section 2(2) were extended by virtue of section 1 of the European Economic Area Act 1993 (c. 51)
(**3**) *See* Article 2(2) of S.I. 1978/1039 (N.I. 9)
(**4**) S.I.1978/1039 (N.I. 9)
(**5**) Article 13(1A) was substituted by S.I. 1998/2795 (N.I. 18)
(**6**) Article 46(3) was amended by S.I.1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraphs 8 and 18

"the 1996 Order" means the Employment Rights (Northern Ireland) Order 1996(**7**);

"the assessment" means, in the case of an employer or self-employed person, the assessment made or changed by him in accordance with regulation 3;

"child" means a person who is not over compulsory school age within the meaning of Article 46 of the Education and Libraries (Northern Ireland) Order 1986(**8**);

"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;

"given birth" means delivered of a living child or, after twenty-four weeks of pregnancy, a stillborn child;

"new or expectant mother" means an employee who is pregnant; who has given birth within the previous six months; or who is breastfeeding;

"registered medical practitioner" means a fully registered person within the meaning of the Medical Act 1983(**9**);

"registered midwife" means a fully registered person within the meaning of the Nurses, Midwives and Health Visitors Act 1997(**10**);

"territorial waters" means United Kingdom territorial waters adjacent to Northern Ireland and "within territorial waters" includes on, over and under them;

"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; and

"young person" means any person who has not attained the age of eighteen.

(3) The Interpretation Act (Northern Ireland) 1954(**11**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Disapplication of these Regulations

2.—(1) 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.

(2) Regulations 3(4) and (5), 10(2) and 19 shall not apply to occasional work or short-term work involving—

(a) domestic service in a private household; or

(b) work regarded as not being harmful, damaging or dangerous to young people in a family undertaking.

(**7**) S.I. 1996/1919 (N.I. 16)
(**8**) S.I. 1986/594 (N.I. 3)
(**9**) 1983 c. 54
(**10**) 1997 c. 24
(**11**) 1954 c. 33 (N.I.)

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) An employer shall not employ a young person unless he has, in relation to risks to the health and safety of young persons, made or reviewed an assessment in accordance with paragraphs (1) and (5).

(5) In making or reviewing the assessment, an employer who employs or is to employ a young person shall take particular account of—

(a) the inexperience, lack of awareness of risks and immaturity of young persons;

(b) the fitting-out and layout of the workplace and the workstation;

(c) the nature, degree and duration of exposure to physical, biological and chemical agents;

(d) the form, range and use of work equipment and the way in which it is handled;

(e) the organisation of processes and activities;

(f) the extent of the health and safety training provided or to be provided to young persons; and

(g) risks from agents, processes and work listed in the Annex to Council Directive 94/33/EC(**12**) on the protection of young people at work.

(6) 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.

Principles of prevention to be applied

4. Where an employer implements any preventive and protective measures he shall do so on the basis of the principles specified in Schedule 1.

(**12**) O.J. No. L216, 20.8.94, p. 12

Health and safety arrangements

5.—(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

6. 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

7.—(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 10; 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 paragraphs (1) and (8) 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 paragraph (1).

(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 to enable him 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 to enable him—

(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.

(8) Where there is a competent person in the employer's employment, that person shall be appointed for the purposes of paragraph (1) in preference to a competent person not in his employment.

Procedures for serious and imminent danger and for danger areas

8.—(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 in so far 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.

Contacts with external services

9. Every employer shall ensure that any necessary contacts with external services are arranged, particularly as regards first-aid, emergency medical care and rescue work.

Information for employees

10.—(1) 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 8(1)(*a*);

(d) the identity of those persons nominated by him in accordance with regulation 8(1)(*b*); and

(e) the risks notified to him in accordance with regulation 11(1)(*c*).