1993 No. 469

HEALTH AND SAFETY

Ionising Radiations (Outside Workers) Regulations (Northern Ireland) 1993

Made . . . . . *2nd December 1993*

Coming into operation . . *1st January 1994*

The Department of Economic Development, being a Department designated by the European Communities (Designation) (No. 3) Order 1991(**a**) for the purposes of section 2(2) of the European Communities Act 1972(**b**) for laying down the basic safety standards for the health protection of the general public and workers against the dangers from ionising radiation, acting in exercise of the power conferred on it by the said section 2(2) and acting as the Department concerned(**c**), in exercise of the powers conferred by Articles 17(1), (2), (4), (5) and (6) and 55(2) of, and paragraphs 7(1), 10, 12(2) and (3), 13, 14(1) and 15 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(**d**) and of every other power enabling it in that behalf, after consultation in accordance with Article 46(1) of that Order with the Health and Safety Agency for Northern Ireland and such other bodies as appeared to it to be appropriate, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Ionising Radiations (Outside Workers) Regulations (Northern Ireland) 1993 and shall come into operation on 1st January 1994.

Interpretation

2.—(1) In these Regulations—

"the 1985 Regulations" means the Ionising Radiations Regulations (Northern Ireland) 1985(**e**);

"activities" means any service provided by an outside worker in a controlled area for which the operator is responsible;

(**a**) S.I. 1991/2289
(**b**) 1972 c. 68
(**c**) *See* Article 2(*a*) of S.I. 1978/1039 (N.I. 9)
(**d**) S.I. 1978/1039.(N.I. 9)
(**e**) S.R. 1985 No. 273

"the Basic Safety Standards Directive" means Council Directive 80/836/Euratom(**a**) laying down the basic safety standards for the health protection of the general public and workers against the dangers from ionising radiation as amended by Council Directive 84/467/Euratom(**b**);

"classified person" means—

(*a*) in the case of a person employed by an outside undertaking in Northern Ireland, a person who has been designated as a classified person under regulation 9 of the 1985 Regulations; or

(*b*) in the case of a person employed by an outside undertaking in Great Britain or in another member State, a person who has been designated as a Category A exposed worker within the meaning of Article 23 of the Basic Safety Standards Directive;

"competent authority" in relation to the competent authority of Great Britain or of a member State means the authority empowered to enforce the basic safety standards for the health protection of workers against dangers from ionising radiation in Great Britain or that member State;

"controlled area" means—

(*a*) in the case of an area situated in Northern Ireland, an area which has been designated as a controlled area under regulation 8 of the 1985 Regulations; or

(*b*) in the case of an area situated in Great Britain or in another member State, an area subject to special rules for the purposes of protection against ionising radiation and to which access is controlled as specified in Article 20 of the Basic Safety Standards Directive;

"dose assessment" means the dose assessment made and recorded by an approved dosimetry service in accordance with regulation 13 of the 1985 Regulations;

"dose estimate" means the estimate of the dose received by the outside worker made by the operator in accordance with regulation 6(2)(*b*);

"member State" means a member State of the European Communities;

"operator" means a person in a member State who is responsible for an area which is or is required to be designated as a controlled area and is—

(*a*) in the case of an area situated in Northern Ireland, an area in which there is carried out work with ionising radiation which is required to be notified under regulation 5 of the 1985 Regulations, or would be so notifiable if it were not excepted from notification by regulation 5(1)(*b*) of those Regulations; or

(*b*) in the case of an area situated in Great Britain or in another member State, an area in which there is carried out an activity

(**a**) O.J. No. L246, 17.9.80, p. 1
(**b**) O.J. No. L265, 5.10.84, p. 4

that is required to be reported under Article 3 of the Basic Safety Standards Directive;

"outside undertaking" means the employer established in a member State of a classified person who undertakes activities of any sort in the controlled area of an operator (other than itself);

"outside worker" means a classified person employed by an outside undertaking who undertakes activities of any sort in the controlled area of any operator (other than that of the outside undertaking which employs him);

"radiation passbook" means—

(*a*) in the case of an outside worker employed by an outside undertaking in Northern Ireland, a passbook approved for the purpose of these Regulations by the Department; or

(*b*) in the case of an outside worker employed by an outside undertaking in Great Britain or in another member State, a passbook authorised by the competent authority for Great Britain or that member State, as the case may be.

(2) Except where otherwise expressly provided for in these Regulations, expressions used in these Regulations shall have the same meanings as in regulation 2(1) of the 1985 Regulations.

(3) In these Regulations, any reference to—

(*a*) an employer includes a reference to a self-employed person and any duty imposed by these Regulations on an employer shall extend to a self-employed person;

(*b*) an employee includes a reference to—

(i) a self-employed person; and

(ii) a trainee who but for the operation of this sub-paragraph and paragraph (4) would not be classed as an employee.

(4) For the purposes of these Regulations and Part I of the Health and Safety at Work (Northern Ireland) Order 1978—

(*a*) the word "work" shall be extended to include any instruction or training which a person undergoes as a trainee and the meaning of "at work" shall be extended accordingly; and

(*b*) a trainee shall, while he is undergoing instruction or training, be treated as the employee of the person whose undertaking (whether for profit or not) is providing that instruction or training and that person shall be treated as the employer of that trainee except that the duties to the trainee imposed upon the person providing instruction or training shall only extend to matters under the control of that person.

(5) Duties under these Regulations imposed upon the operator shall also be imposed upon the manager of a mine (within the meaning of section 156 of the Mines Act (Northern Ireland) 1969(**a**)) in so far as those duties relate to the mine of which he is the manager and to matters under his control.

(**a**) 1969 c. 6 (N.I.)

(6) Duties under these Regulations imposed upon the operator shall also be imposed upon the owner, occupier or agent of a quarry (within the meaning of Article 2 of the Quarries (Northern Ireland) Order 1983(**a**)) in so far as those duties relate to the quarry or part of the quarry of which he is the owner, occupier or agent and to matters under his control.

(7) Duties under these Regulations imposed upon the operator shall also be imposed on the holder of a nuclear site licence under the Nuclear Installations Act 1965(**b**) in so far as those duties relate to the licensed site.

(8) The Interpretation Act (Northern Ireland) 1954(**c**) shall apply to these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Application

3.—(1) Without prejudice to the requirements of regulation 4 of the 1985 Regulations (co-operation between employers), regulation 6(1)(*b*) (duties of the operator) shall not apply in relation to an outside worker who enters a controlled area of the operator in the exercise of powers conferred on him by law.

(2) In the case of an outside worker (working in a controlled area situated in Northern Ireland) employed by an outside undertaking established in Great Britain or in another member State, it shall be a sufficient compliance with regulation 13 (dose assessment) and regulation 16 (medical surveillance) of the 1985 Regulations, if the outside undertaking complies with—

(*a*) where the outside undertaking is established in Great Britain, regulations 13 and 16 of the Ionising Radiations Regulations 1985(**d**); or

(*b*) where the outside undertaking is established in another member State, the legislation in that State implementing Chapters II and III of Title VI of the Basic Safety Standards Directive where such legislation exists.

(3) The duties imposed by regulations 4 and 5 on the outside undertaking shall only apply to outside undertakings established in Northern Ireland.

(4) The duties imposed by regulation 6 on the operator shall only apply to the operator of a controlled area situated in Northern Ireland.

(5) The duties imposed by regulation 7 on the outside worker shall only apply to an outside worker working in a controlled area situated in Northern Ireland.

(6) Subject to paragraph (2), nothing in these Regulations shall prejudice the requirements of the 1985 Regulations.

Duties of the outside undertaking

4.—(1) It shall be the duty of the outside undertaking which employs an outside worker to undertake activities in the controlled area of an operator—

(**a**) S.I. 1983/150 (N.I. 4)
(**b**) 1965 c. 57
(**c**) 1954 c. 33 (N.I.)
(**d**) S.I. 1985/1333

(*a*) before commencing the activities, to make suitable arrangements to obtain from the operator information about the radiological risks relevant to the intended activities and to the controlled areas in which they are to be undertaken and any special training that may be required;

(*b*) to ensure that the outside worker concerned has received the necessary information and training with a view to ensuring his safety in the course of those activities; and

(*c*) to make suitable arrangements with the operator to ensure that an estimate is made of the dose received by the worker in the course of those activities.

(2) Where an outside undertaking employs an outside worker to work in Great Britain or another member State, the outside undertaking shall make suitable arrangements to ensure that a continuing record of the assessment of the dose received by the outside worker is maintained by the approved dosimetry service throughout the period of his employment by the outside undertaking.

Radiation passbooks

5.—(1) The outside undertaking shall ensure that each outside worker employed by it is provided with an individual radiation passbook which shall be non-transferable and in which shall be entered the particulars set out in the Schedule.

(2) The outside undertaking shall make suitable arrangements to ensure that the particulars entered in the radiation passbook are kept up to date.

(3) The outside undertaking shall ensure that a suitable record is kept of the issue of any radiation passbook to each outside worker to whom one has been issued and of the loss of any radiation passbook which has been reported to it in accordance with regulation 7(1)(*a*) and such records shall be kept for at least 5 years after the radiation passbook has ceased to be used by the outside worker.

(4) Where the outside undertaking has had the loss of a radiation passbook reported to it in accordance with regulation 7(1)(*a*), it shall ensure that an investigation is made of the circumstances of that loss, and an assessment, or if that is not reasonably practicable, an estimate, is made of the dose received by the outside worker and shall ensure that the result of that investigation is entered in the record referred to in paragraph (3).

(5) When an outside worker has returned a radiation passbook to the outside undertaking in accordance with regulation 7(1)(*c*), the outside undertaking shall ensure that the radiation passbook is kept for at least 5 years from that date.

(6) Where the radiation passbook has been returned to the outside undertaking as it is full and requires renewal or its loss has been reported to the outside undertaking, the outside undertaking shall ensure that a new radiation passbook is issued forthwith to the outside worker and in a case where the radiation passbook has been lost, the new radiation passbook shall be clearly marked with the word "replacement".