



Statutory Document No.877/03

THE HEALTH AND SAFETY AT WORK ETC. ACT 1974

**THE MANAGEMENT OF HEALTH AND SAFETY AT WORK  
REGULATIONS 2003**

*Approved by Tynwald*

*21st January 2004*

*Coming into operation*

*1st October 2004*

In exercise of the powers conferred on the Department of Local Government and the Environment by sections 15(1), (2), (3)(a), (4)(a), (5) and (9), 47(2), 52(2), 80(1) and 82(3)(a) of, and paragraphs 6(1), 7, 8(1), 10, 14, 15 and 16 of Schedule 3 to, the Health and Safety at Work, etc. Act 1974 (an Act of Parliament)<sup>1</sup>, as it has effect in the Island<sup>2</sup>, and of all other enabling powers, and after consulting such organisations as appear to it to be representative of interests likely to be substantially affected thereby, the following Regulations are hereby made:—

**1. Citation, commencement and interpretation**

(1) These Regulations may be cited as the Management of Health and Safety at Work Regulations 2003 and, subject to section 82(5) of the Act, shall come into operation on the 1st October 2004.

(2) In these Regulations —

"the assessment", in relation to an employer or self-employed person, means 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 section 23 of the Education Act 2001<sup>3</sup>);

"Directive 2014/27/EU" means Directive 2014/27/EU of the European Parliament and of the Council of 26 February 2014 amending Council Directives 92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council in order to align them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures<sup>1</sup>;

"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

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<sup>1</sup> OJ L 65, 5.3.2014.

supplies persons (other than seafarers) who are employed in it to work for and under the control of other persons in any capacity;

<sup>1</sup>Provisions of the Health and Safety at Work etc. Act 1974 (of Parliament) were previously applied to the Isle of Man by the Health and Safety at Work Order 1998 [SD 155/98] which was subsequently revoked and replaced by SD 2024/0073.

<sup>2</sup>SD 2024/0073

<sup>3</sup>2001 c.33

<sup>4</sup>GC 9/85

Price Code B £1.70

"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 a living child or, after 24 weeks of pregnancy, a stillborn child;

"new or expectant mother" means an employee who is pregnant, who has given birth within the previous 6 months, or who is breastfeeding;

"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 by regulation 17 and Schedule 2 (general principles of prevention);

"young person" means any person (other than a child) who has not attained the age of 18.

## **2. Disapplication of Regulations**

(1) These Regulations do not apply to or in relation to the master or crew of a ship or to the employer of such persons in respect of the normal ship-board activities of a ship's crew which are carried out solely by the crew under the direction of the master.

(2) Regulations 3(4) and (5) (risk assessment), 9(2) (information for employees) and 16 (protection of children and young persons) do not apply to occasional work or short-term work involving work regarded as not being harmful, damaging or dangerous to young people in a family undertaking.

(3) In this regulation –

“normal ship-board activities” include the repair of a ship save repair when carried out in dry dock;

“ship” includes every description of a vessel used in navigation, other than a ship belonging to His Majesty which forms part of His Majesty's Navy.

## **3. Risk assessment**

- (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 regulation 17 and the Schedule (fire precautions in the workplace) and other relevant statutory provisions.

- (2) Every relevant 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 relevant 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 relevant self-employed person concerned shall make them.

(3A) In this regulation “relevant self-employed person” means a self-employed person who conducts an undertaking of a prescribed description for the purposes of section 3(2) of the Health and Safety at Work etc. Act 1974 (as it applies in the Isle of Man).<sup>2</sup>

- (4) An employer shall not employ a child or young person unless he has, in relation to risks to the health and safety of children and 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 child or young person shall take particular account of —
  - (a) the inexperience, lack of awareness of risks and immaturity of children and young persons;
  - (b) the fitting-out and layout of the workplace and the workstation;

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<sup>2</sup> SD 2024/0073

- (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 children and young persons; and
  - (g) risks from agents, processes and work (listed in the Annex to Council Directive 94/33/EC)<sup>3</sup> on the protection of children and young people at work, as amended by Directive 2014/27/EU.
- (6) Where the employer employs 5 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.

### **3A. Principles of prevention to be applied**

Where an employer implements any preventive and protective measures the employer must do so on the basis of the principles specified in Schedule 2 (general principles of prevention).

## **4. Health and safety arrangements**

(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 5 or more employees, he shall record the arrangements referred to in paragraph (1).

## **5. Health surveillance**

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.

## **6. Health and safety assistance**

(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

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<sup>3</sup> OJ L 216, 20.8.1994

with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions and by regulation 17 and 1 the Schedule (fire precautions in the workplace).

(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) does not apply to a self-employed employer (“E”) who is not in partnership with any other person where E 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.

(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.

## **7. Procedures for serious and imminent danger and for danger areas**

(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.

## **8. Contacts with external services**

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

## **9. Information for employees**

(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 7(1)(a) and the measures referred to in paragraph 1(2)(a) of the Schedule (fire precautions in the workplace);
- (d) the identity of the persons nominated by him in accordance with regulation 7(1)(b) and paragraph 1(2)(b) of the Schedule (fire precautions in the workplace); and
- (e) the risks notified to him in accordance with regulation 10(1)(c).

(2) Every employer shall, before employing a child, provide a parent of the child with comprehensible and relevant information on —

- (a) the risks to his health and safety identified by the assessment;
- (b) the preventive and protective measures; and
- (c) the risks notified to him in accordance with regulation 10(1)(c).

(3) The reference in paragraph (2) to a parent of the child includes a person who has parental responsibility, within the meaning of section 2 of the Children and Young Persons Act 2001, for him.

## **10. Co-operation and co-ordination**

(1) Where 2 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 and by regulation 17;
- (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 and by regulation 17 with the measures the other employers concerned are taking to comply with the requirements and prohibitions imposed upon them by that legislation; 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) (except so far as it refers to regulation 17 applies 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 their employees shall be construed accordingly.

## **11. Persons working in host employers' or self-employed persons' undertakings**

(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 and by regulation 17 and the Schedule (fire precautions in the workplace) in so far as those requirements and prohibitions relate to those employees.

(2) Paragraph (1) (except so far as it refers to regulation 17 and the Schedule (fire precautions in the workplace) applies 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 references in that paragraph to —

- (a) the employer of any employees from an outside undertaking who are working in the undertaking of an employer or a self-employed person, and
- (b) 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) applies 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 references in that paragraph to –

- (a) the employer of any employees from an outside undertaking who are working in an employer's undertaking, and
- (b) the references in the said paragraph to employees from the references in the said paragraph to an outside undertaking who are working in an employer's undertaking.

shall be construed accordingly.

## **12. Capabilities and training**

(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.

### **13. Employees' duties**

(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,

in so far 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.

### **14. Temporary workers**

(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) 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 (in so far 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.

## **15. Risk assessment in respect of new or expectant mothers**

(1) Where —

- (a) the persons working in an undertaking include women of child-bearing age; and
- (b) the work is of a kind which could involve risk, by reason of her condition, to the health and safety of a new or expectant mother, or to that of her baby, from any processes or working conditions, or physical, biological or chemical agents, including those specified in Annexes I and II of Council Directive 92/85/EEC(11) on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding<sup>4</sup> as amended by Directive 2014/27/EU<sup>5</sup>,

the assessment required by regulation 3(1) shall also include an assessment of such risk.

- (2) Where, in the case of an individual employee, the taking of any other action the employer is required to take under the relevant statutory provisions would not avoid the risk referred to in paragraph (1), the employer shall, if it is reasonable to do so, and would avoid such risks, alter her working conditions or hours of work.
- (3) If it is not reasonable to alter the working conditions or hours of work, or if it would not avoid such risk, the employer shall, subject to section 75 of the Employment Act 2006, suspend the employee from work for so long as is necessary to avoid such risk.
- (4) In paragraphs (1) to (3) references to risk, in relation to risk from any infectious or contagious disease, are references to a level of risk at work

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<sup>4</sup> OJ L 348, 28.11.1992

<sup>5</sup> OJ L 65, 5.3.2014

which is in addition to the level to which a new or expectant mother may be expected to be exposed outside the workplace.

**15A Alteration of working conditions in respect of new or expectant mother (agency workers)**

- (1) Where, in the case of an individual agency worker, the taking of any other action the hirer if required to take under the relevant statutory provisions would not avoid the risks referred to in regulation 15(1) (risk assessment in respect of new or expectant mothers) the hirer shall, if it is reasonable to do so, and would avoid such risks, alter her conditions or hours of work.
- (2) If it is not reasonable to alter the working conditions or hours of work, or if it would not avoid such risk, the hirer shall without delay inform the temporary work agency, who shall then end the supply of that agency worker to the hirer.
- (3) In paragraphs (1) and (2) reference to risk, in relation to risk from any infectious or contagious disease, are reference to a level of risk at work which is in addition to the level to which a new or expectant mother may be exposed outside the workplace.

**15B Certificate from registered medical practitioner in respect of new or expectant mothers**

Where—

- (a) a new or expectant mother works at night; and
- (b) a certificate from a registered medical practitioner or a registered midwife shows that it is necessary for her health or safety that she should not be at work for any period of such work identified in the certificate,

the employer shall, (subject to section 75 of the Employment Act 2006), suspend her from work for so long as is necessary for her health or safety.

**15C Certificate from registered medical practitioner in respect of new or expectant mothers (agency workers)**

Where—

- (a) a new or expectant mother works at night; and
- (b) a certificate from a registered medical practitioner or a registered midwife shows that it is necessary for her health or safety that she should not be at work for any period of such work identified in the certificate,

the hirer shall without delay inform the temporary work agency, who shall then end the supply of that agency worker to the hirer.

#### **15D. Notification by new or expectant mothers**

- (1) Nothing in paragraph (2) or (3) of regulation 15 (risk assessment in respect of new or expectant mothers) shall require the employer to take any action in relation to an employee ("P") until P has notified the employer in writing that P is pregnant, has given birth within the previous 6 months, or is breastfeeding.
- (2) Nothing in paragraph (2) or (3) of regulation 15 or in regulation 15B (certificate from registered medical practitioner in respect of new or expectant mothers) shall require the employer to maintain action taken in relation to an employee –
  - (a) in any case –
    - (i) to which regulation 15(2) or (3) relates; and
    - (ii) where P has notified the employer that P is pregnant, where P has failed, within a reasonable time of being requested to do so in writing by P's employer, to produce for the employer's inspection a certificate from a registered medical practitioner or a registered midwife showing that P is pregnant;
  - (b) once the employer knows that P is no longer a new or expectant mother; or
  - (c) if the employer cannot establish whether P remains a new or expectant mother.

#### **15E Notification by new or expectant mother (agency workers)**

- (1) Nothing in regulation 15A(1) or (2) (alteration of working conditions in respect of new or expectant mother (agency workers)) shall require the hirer to take any action in relation to an agency worker ("W") until W has notified the hirer in writing that W is pregnant, has given birth within the previous 6 months, or is breastfeeding.
- (2) Nothing in regulation 15A(2) shall require the temporary work agency to end the supply of W until W has notified the temporary work agency in writing that W is pregnant, has given birth within the previous 6 months, or is breastfeeding
- (3) Nothing in relation to 15A(1) shall require the hirer to maintain action taken in relation to W –
  - (a) in any case –
    - (i) to which regulation 15A(1) relates; and
    - (ii) where W has notified the hirer that W is pregnant, where W has failed, within a reasonable time of being requested to do so in writing by the hirer, to produce for the hirer's inspection a certificate from a registered medical practitioner or a registered midwife showing that W is pregnant; or
  - (b) once the hirer knows that W is no longer a new or expectant mother; or

- (c) if the hirer cannot establish whether W remains a new or expectant mother.

#### 15F. Agency workers: general provisions

- (1) Without prejudice to any other duties of the hirer or temporary work agency under any enactment or rule of law in relation to health and safety at work, regulation 15A (alteration of working conditions in respect of new or expectant mothers (agency workers)) (15C (certificate from registered medical practitioner in respect of new or expectant mothers (agency workers)) and 15E (notification by new or expectant mother (agency workers)) shall not apply where the agency worker has not completed the qualifying period.
- (2) Nothing in regulations 15A or 15C imposes a duty on the hirer or temporary work agency beyond the intended duration, or likely duration, or likely duration of the assignment, whichever is the longer.
- (3) This regulation, and regulations 15A, 15C and 15E do not apply in circumstances where 15 (risk assessment in respect of new or expectant mothers), 15B (certificate from registered medical practitioner in respect of new or expectant mothers) and 15D (notification by new or expectant mothers) apply

#### 15G Meaning of qualifying period

- (1) In regulation 15F (agency workers: general provisions) **“qualifying period”** means the agency worker must complete work in the same role with the same hirer for 12 continuous calendar weeks, during one or more assignments.
- (2) The agency worker works in **“the same role”** unless—
  - (a) the agency worker has started a new role with the same hirer, whether supplied by the same or by a different temporary work agency;
  - (b) the work or duties that make up the whole or the main part of that new role are substantively different from the work or duties that made up the whole or the main part of the previous role; and
  - (c) the temporary work agency has informed the agency worker in writing of the type of work the agency worker will be required to do in the new role.
- (3) Any week during the whole or part of which an agency worker works during an assignment is counted as a calendar week.
- (4) When calculating whether any weeks completed with a particular hirer are continuous, where—
  - (a) the agency worker has started working during an assignment, and there is a break, either between assignments or during an assignment, when the agency worker is not working,
  - (b) paragraph (8) applies to that break, and

(c) the agency worker returns to work in the same role with the same hirer,

any continuous weeks during which the agency worker worked for that hirer before the break shall be carried forward and treated as continuous with any weeks during which the agency worker works for that hirer after the break.

(5) When calculating the number of weeks during which the agency worker has worked, where the agency worker has—

(a) started working in a role during an assignment, and

(b) is unable to continue working for a reason described in paragraph (8)(c) or (8)(d)(i), (ii) or (iii),

for the period that is covered by one or more such reasons, that agency worker shall be deemed to be working in that role with the hirer, for the original intended duration, or likely duration of the assignment, whichever is the longer.

(6) Where—

(a) an assignment ends on grounds which are maternity grounds within the meaning given in paragraph (7), and

(b) the agency worker is deemed to be working in that role in accordance with paragraph (5),

the fact that an agency worker is actually working in another role, whether for the same or a different hirer during the period mentioned in paragraph (5) or any part of that period, does not affect the operation of that paragraph.

(7) The supply of an agency worker to a hirer is ended on maternity grounds if, in consequence of action taken pursuant to the provisions of regulation 15A(2) (alteration of working conditions in respect of new or expectant mothers (agency workers)) or regulation 15C (certificate from registered medical practitioner in respect of new or expectant mothers (agency workers)), the supply of the agency worker to the hirer is ended on the ground that she is pregnant, has recently given birth or is breastfeeding a child.

(8) This paragraph applies where there is a break between assignments, or during an assignment, when the agency worker is not working, and the break is—

(a) for any reason and the break is not more than six calendar weeks;

(b) wholly due to the fact that the agency worker is incapable of working in consequence of sickness or injury, and the requirements of paragraph (9) are satisfied;

(c) related to pregnancy, childbirth or maternity and is at a time in a protected period;

- (d) wholly for the purpose of taking time off or leave, whether statutory or contractual, to which the agency worker is otherwise entitled which is—
    - (i) ordinary, compulsory or additional maternity leave;
    - (ii) ordinary or additional adoption leave;
    - (iii) paternity leave;
    - (iv) time off or other leave not listed in sub-paragraph (d)(i), (ii) or (iii); or
    - (v) for more than one of the reasons listed in sub-paragraph (d)(i) to (iv);
  - (e) wholly due to the fact that the agency worker is required to attend at any place in pursuance of being summoned for service as a juror under the Jury Act 1980 or Coroners of Inquests Act 1987, and the break is 28 calendar weeks or less;
  - (f) wholly due to a temporary cessation in the hirer’s requirement for any worker to be present at the establishment and work in a particular role, for a pre-determined period of time according to the established custom and practices of the hirer; or
  - (g) wholly due to a strike, lock-out or other industrial action at the hirer’s establishment; or
  - (h) wholly due to more than one of the reasons listed in sub-paragraphs (b), (c), (d), (e), (f) or (g).
- (9) Paragraph (8)(b) only applies where—
    - (a) the break is 28 calendar weeks or less;
    - (b) paragraph (8)(c) does not apply; and
    - (c) if required to do so by the temporary work agency, the agency worker has provided such written medical evidence as may reasonably be required.
  - (10) For the purposes of paragraph (8)(c), a protected period begins at the start of the pregnancy, and the protected period associated with any particular pregnancy ends at the end of the 26 weeks beginning with childbirth or, if earlier, when the agency worker returns to work.
  - (11) For the purposes of paragraph (11) “childbirth” means the birth of a living child or the birth of a child whether living or dead after 24 weeks of pregnancy.
  - (12) Time spent by an agency worker working during an assignment before these Regulations come into operation does not count for the purposes of this regulation.

**15H Meaning of agency worker**

In Regulations 15A to 15G, “agency worker” means —

- (a) an individual who —



- (i) is supplied by a temporary work agency to work temporarily for and under the supervision and direction of a hirer; and
  - (ii) has a contract with the temporary work agency which is —
    - (A) a contract of employment with the agency, or
    - (B) any other contract with the agency to perform work or services personally;
- (b) but an individual is not an agency worker if —
  - (i) the contract the individual has with the temporary work agency has the effect that the status of the agency is that of a client or customer of a profession or business undertaking carried on by the individual; or
  - (ii) there is a contract, by virtue of which the individual is available to work for the hirer, having the effect that the status of the hirer is that of a client or customer of a profession or business undertaking carried on by the individual;
- (c) for the purposes of sub-paragraph (a)(i) an individual shall be treated as having been supplied by a temporary work agency to work temporarily for and under the supervision and direction of a hirer if —
  - (i) the temporary work agency initiates or is involved as an intermediary in the making of the arrangements that lead to the individual being supplied to work temporarily for and under the supervision and direction of the hirer, and
  - (ii) the individual is supplied by an intermediary, or one of a number of intermediaries, to work temporarily for and under the supervision and direction of the hirer;
- (d) an individual treated by virtue of sub-paragraph (c) as having been supplied by a temporary work agency, shall be treated, for the purposes of sub-paragraph (a)(ii), as having a contract with the temporary work agency;
- (e) an individual is not prevented from being an agency worker because —
  - (i) the temporary work agency supplies the individual through one or more intermediaries;
  - (ii) one or more intermediaries supply that individual;
  - (iii) the individual is supplied pursuant to any contract or other arrangement between the temporary work agency, one or more intermediaries and the hirer;
  - (iv) the temporary work agency pays for the services of the individual through one or more intermediaries; or
  - (v) the individual is employed by or otherwise has a contract with one or more intermediaries;

(f) sub-paragraph (e) does not prejudice the generality of paragraphs (a) to (d).

#### **15I Meaning of temporary work agency**

- (1) In Regulations 15A to 15H, “**temporary work agency**” means a person engaged in the economic activity, public or private, whether or not operating for profit, and whether or not carrying on such activity in conjunction with others, of —
- (a) supplying individuals to work temporarily for and under the supervision and direction of hirers; or
  - (b) paying for, or receiving or forwarding payment for, the services of individuals who are supplied to work temporarily for and under the supervision and direction of hirers.
- (2) Notwithstanding paragraph (1)(b) a person is not a temporary work agency if the person is engaged in the economic activity of paying for, or receiving or forwarding payments for, the services of individuals regardless of whether the individuals are supplied to work for hirers.

#### **15J Other definitions**

In Regulations 15A to 15J —

“**assignment**” means a period of time during which an agency worker is supplied by one or more temporary work agencies to a hirer to work temporarily for and under the supervision and direction of the hirer;

“**hirer**” means a person engaged in economic activity, public or private, whether or not operating for profit, to whom individuals are supplied, to work temporarily for and under the supervision and direction of that person.

### **16. Protection of children and young persons**

- (1) Every employer shall ensure that children and young persons employed by him are protected at work from any risks to their health or safety which are a consequence of their lack of experience, or absence of awareness of existing or potential risks or the fact that young persons have not yet fully matured.
- (2) Subject to paragraph (3), no employer shall employ a child or a young person for work —
- (a) which is beyond his physical or psychological capacity;
  - (b) involving harmful exposure to agents which are toxic or carcinogenic, cause heritable genetic damage or harm to the unborn child or which in any other way chronically affect human health;
  - (c) involving harmful exposure to radiation;
  - (d) involving the risk of accidents which it may reasonably be assumed cannot be recognised or avoided by children or young persons owing to their insufficient attention to safety or lack of experience or training;
- or

- (e) in which there is a risk to health from –
  - (i) extreme cold or heat;
  - (ii) noise; or
  - (iii) vibration,
 and in determining whether work will involve harm or risks for the purposes of this paragraph, regard shall be had to the results of the assessment.
- (3) Nothing in paragraph (2) prevents the employment of a young person who is no longer a child for work –
  - (a) where it is necessary for his training;
  - (b) where the young person will be supervised by a competent person;
 and
  - (c) where any risk will be reduced to the lowest level that is reasonably practicable.
- (4) The provisions contained in this regulation are without prejudice to –
  - (a) the provisions contained elsewhere in these Regulations; and
  - (b) any prohibition or restriction, arising otherwise than by this regulation, on the employment of any person.

#### 16A. Exemption certificates

- (1) The Department may, in the interests of national security, by a certificate in writing exempt –
  - (a) any of the home forces, any visiting force from those requirements of these Regulations which impose obligations other than those in regulations 15 to 15I 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 13 (employees’ duties),
 and any exemption such as is specified in sub-paragraph (a) or (b) of this paragraph may be granted subject to conditions and to a limit of time and may be revoked by the Department by a further certificate in writing at any time.
- (2) In this regulation –
 

“the home forces” has the same meaning as in section 12(1) of the Visiting Forces Act 1952 (of Parliament) as applied to the Island by the Visiting Forces Act (Application To the Isle of Man) Order 1962<sup>6</sup>;

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<sup>6</sup> S.I. 1962/170

“visiting force” has the same meaning as it does for the purposes of any provision of Part I of the Visiting Forces Act 1952 (of Parliament) as applied to the Island.

#### **16B. Provisions as to liability**

Nothing in the relevant statutory provisions shall operate so as to afford an employer a defence in any criminal proceedings for a contravention of those provisions by reason or of any act or default of –

- (a) an employee of his; or
- (b) a person appointed by him under regulation 6 (health and safety assistance).

#### **16C. Restriction of civil liability for a breach of statutory duty**

- (1) Breach of a duty imposed by regulation 15, 15A, 15B or 15C shall, so far as it causes damage, be actionable by the new or expectant mother.
- (2) Any term of an agreement which purports to exclude or restrict any liability for such a breach is void.

#### **17. Fire precautions in the workplace**

- (1) Every employer shall ensure that the requirements of the Schedule (fire precautions in the work place) are complied with in respect of every workplace, other than an excepted workplace, which is to any extent under his control.
- (2) Every person other than the employer referred to in paragraph (1), who has, to any extent, control of a workplace, other than an excepted workplace, shall ensure that, so far as relates to matters within his control, the workplace complies with any applicable requirement of the Schedule.
- (3) Where a person has, by virtue of any contract or tenancy, an obligation of any extent in relation to –
  - (a) the maintenance or repair of any workplace; or
  - (b) the safety of any workplace,

that person shall be treated, for the purposes of paragraph (2), as being a person who has control of the workplace to the extent that his obligation so extends.

- (4) Any reference in this regulation to a person having control of any workplace is a reference to a person having control of the workplace in connection with the carrying on by him of a trade, business or other undertaking (whether for profit or not).

- (4A) For the purposes of these Regulations, an “**excepted workplace**” is–

- (a) any workplace which is or is in or on a ship within the meaning of section 68 of the Merchant Shipping (Masters and Seamen) Act 1979 other than a ship which is–
    - (i) in the course of construction; or
    - (ii) in the course of repair by persons who include persons other than the master and crew of the ship;
  - (b) any workplace which is or is on an offshore installation within the meaning of regulation 3 of the Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995<sup>7</sup> as applied to the Island by the Submarine Pipe-lines and Installations (Application and Amendment) Order 1995<sup>8</sup>
  - (c) any workplace which is or is in or on an aircraft, trailer or semi-trailer used as a means of transport or a vehicle for which a licence is in force under the Licensing and Registration of Vehicles Act 1985 or a vehicle exempted from duty under that Act; and
  - (d) any workplace which is in fields, woods or other land forming part of an agricultural or forestry undertaking but which is not inside a building and is situated away from the undertaking's main buildings.
- (5) The requirements of this regulation shall not have effect to the extent that they would prevent –
- (a) any member of the armed forces of the Crown or of any visiting force;
  - (b) any constable; or
  - (c) any member of any emergency service,
- from carrying out their duties.
- (6) Without prejudice to paragraph (5), paragraph 2(2)(f) of the Schedule (fire precautions in the workplace) does not apply to any institution (within the meaning of the Custody Act 1995<sup>5</sup>) or any part of any other premises used for keeping persons in lawful custody or detention.
- (7) Where paragraph (5) or (6) applies, the safety of persons in case of fire shall nevertheless be ensured so far as is reasonably practicable.

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<sup>7</sup> S.I. 1995/738

<sup>8</sup> SD 277/95.

## SCHEDULE 1

### FIRE PRECAUTIONS IN THE WORKPLACE

#### *Fire-fighting and fire detection*

- (1) Where necessary (whether due to the features of a workplace, the activity carried on there, any hazard present there or any other relevant circumstances) in order to safeguard the safety of employees and other persons in case of fire —
- (a) a workplace shall, to the extent that is appropriate, be equipped with appropriate firefighting equipment and with fire detectors and alarms; and
  - (b) any non-automatic fire-fighting equipment so provided shall be easily accessible, simple to use and indicated by signs,

and, for the purposes of (a) above, what is appropriate is to be determined having regard to the dimensions and use of the buildings at the workplace, the equipment they contain, the physical and chemical properties of the substances likely to be present and the maximum number of people that may be present at any one time.

- (2) An employer shall, where necessary in order to safeguard the safety of his employees and other persons in case of fire —
- (a) take measures for fire-fighting in the workplace, adapted to the nature of the activities carried on there and the size of his undertaking and of the workplace concerned and taking into account persons other than his employees who may be present;
  - (b) nominate employees to implement those measures and ensure that the number of such employees, their training and the equipment available to them are adequate, taking into account the size of, and the specific hazards involved in, the workplace concerned; and
  - (c) arrange any necessary contacts with external emergency services, particularly as regards rescue work and fire-fighting.

#### *Emergency routes and exits*

- (1) Where necessary in order to safeguard the safety of employees and other persons in case of fire, routes to emergency exits from a workplace and the exits themselves shall be kept clear at all times.
- (2) The following requirements must be complied with in respect of a workplace where necessary (whether due to the features of the workplace, the activity carried on there, any hazard present there or any other relevant circumstances) in order to safeguard the safety of employees and other persons in case of fire —
- (a) emergency routes and exits shall lead as directly as possible to a place of safety;
  - (b) in the event of danger, it must be possible for employees and other persons to evacuate the workplace quickly and as safely as possible;

- (c) the number, distribution and dimensions of emergency routes and exits shall be adequate having regard to the use, equipment and dimensions of the workplace and the maximum number of persons that may be present there at any one time;
- (d) emergency doors shall open in the direction of escape;
- (e) sliding or revolving doors shall not be used for exits specifically intended as emergency exits;
- (f) emergency doors shall not be so locked or fastened that they cannot be easily and immediately opened by any person who may require to use them in an emergency;
- (g) emergency routes and exits must be indicated by signs; and
- (h) emergency routes and exits requiring illumination shall be provided with emergency lighting of adequate intensity in the case of failure of their normal lighting.

#### *Maintenance*

Where necessary in order to safeguard the safety of employees (and other persons) in case of fire, the workplace and any equipment and devices provided in respect of the workplace under this Schedule shall be subject to a suitable system of maintenance and be maintained in an efficient state, in efficient working order and in good repair.

## SCHEDULE 2 (Regulation 3A)

### GENERAL PRINCIPLES OF PREVENTION

The general principles of prevention set out in Article 6(2) of Council Directive 89/391/EEC<sup>9</sup> are -

- (a) avoiding risks;
- (b) evaluating the risks which cannot be avoided;
- (c) combating the risks at source;
- (d) adapting the work to the individual, especially as regards the design of workplaces, the choice of work equipment and the choice of working and production methods, with a view, in particular, to alleviating monotonous work and work at a predetermined work-rate and to reducing their effect on health;
- (e) adapting to technical progress;
- (f) replacing the dangerous by the non-dangerous or the less dangerous;
- (g) developing a coherent overall prevention policy which covers technology, organisation of work, working conditions, social relationships and the influence of factors relating to the working environment;
- (h) giving collective protective measures priority over individual protective measures; and
- (i) giving appropriate instructions to employees.

**MADE 14th December, 2003**

*Pamela M. Crowe*

Minister for Local Government and the Environment

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<sup>9</sup> OJ L 183, 29.6.1989



## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations, made under Part I of the Health and Safety at Work etc. Act 1974 of Parliament, as it has effect in the Isle of Man, impose general obligations on employers and others to ensure health and safety at work. Work on board ships is excluded, and certain exemptions are made for occasional or short-term work in a household or family undertaking (reg.2).

Employers are required —

- (a) to make a proper risk assessment of their undertaking (reg.3),
- (b) to make arrangements for the planning, organisation, etc. of health and safety measures (reg.4),
- (c) to provide employees with appropriate health surveillance (reg.5),
- (d) to appoint competent persons to fulfil his health and safety obligations (reg.6),
- (e) to set up procedures to be followed if serious danger arises and to restrict access to danger areas (reg.7),
- (f) to arrange for necessary contact with emergency services (reg.8),
- (g) to provide employees with information on health and safety matters (reg.9).
- (h) where 2 or more employers share a workplace, to co-operate in fulfilling their obligations (reg.10),
- (i) to provide workers from outside with information about risks and measures (reg.11), and
- (j) to take account of their employees' capabilities and provide them with adequate health and safety training (reg.12).

The obligations under regs.3 and 11 also apply to self-employed persons.

Employees are required to comply with any training and instructions they have received, to inform the responsible persons of any dangers or shortcomings (reg.13). Information must be given to temporary workers (reg.14). Special risk assessments must be made in relation to new or expectant mothers (reg.15), and special restrictions are imposed in relation to persons under 18 (reg.16). Provision is made for fire precautions in workplaces (other than construction sites) (reg.17 and Schedule). A contravention of the Regulations does not in general give rise to civil liability (reg.18), but amounts to an offence under section 33 of the Health and Safety at Work etc. Act 1974, carrying an unlimited fine (on conviction on information) or a maximum fine of £20,000 (on summary conviction).