



HEALTH AND SAFETY (CONSULTATION WITH EMPLOYEES) REGULATIONS 2025

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Statutory Document No. 20XX/XXXX



Health and Safety at Work etc. Act 1974

HEALTH AND SAFETY (CONSULTATION WITH EMPLOYEES) REGULATIONS 2025

Approved by Tynwald:

Coming into operation in accordance with regulation 2

The Department of Environment, Food and Agriculture makes the following Regulations, after consulting such organisations as it considers represent interests affected by the Regulations¹, under sections 2(4) and 15(1) of the Health and Safety at Work etc. Act 1974 (an Act of Parliament), as it applies to the Island².

1 Title

These Regulations are the Health and Safety (Consultation with Employees) Regulations 2025.

2 Commencement

If approved by Tynwald³, these Regulations come into operation TBC.

3 Interpretation

(1) In these Regulations, unless the context otherwise requires —

“**the 1974 Act**” means the Health and Safety at Work etc. Act 1974 (of Parliament) as it applies to the Island;

“**employee**” has the meaning assigned to it by section 53(1) of the 1974 Act but does not include a person employed as a domestic servant in a private household; and “**employer**” is to be construed accordingly;

“**representatives of employee safety**” means in relation to any consultation under these Regulations and in respect of any group of employees, one or more persons in that group who were elected, by the employees in that group at the time of the election, to represent that group for the purposes of such consultation;

¹ As required by section 82(4) of the 1974 Act.

² SD 2024/0073.

³ Tynwald approval is required under section 82(5) of the 1974 Act.

“**safety representative**” has the meaning assigned to it by regulation 2(1) of the Safety Representatives and Safety Committees Regulations 2025⁴;

“**workplace**” means —

- (a) in relation to an employee any place or places where the employee is likely to work or which he or she is likely to frequent in the course of his or her employment or incidentally to that employment, and
 - (b) in relation to a representative of employee safety, any place or places where the employees whom the representative of employee safety represents are likely so to work or frequent.
- (2) Any reference in these Regulations to consulting employees directly or consulting representatives of employee safety is a reference to consulting them pursuant to regulation 3 and regulation 4(1)(a) or (b), as the case may be.

4 Duty of employer to consult

[SI 1996/1513/3]

Where there are employees who are not represented by safety representatives under the Safety Representatives and Safety Committees Regulations 2025, the employer must consult those employees in good time on matters relating to their health and safety at work and, in particular, with regard to —

- (a) the introduction of any measure at the workplace which may substantially affect the health and safety of those employees;
- (b) the employer’s arrangements for appointing or, as the case may be, nominating persons in accordance with regulations 6(1) and 7(1)(b) of, or paragraph 1(2)(b) of Schedule 1 to, the Management of Health and Safety at Work Regulations 2003⁵;
- (c) any health and safety information that the employer is required to provide to those employees by or under the relevant statutory provisions;
- (d) the planning and organisation of any health and safety training that the employer is required to provide to those employees by or under the relevant statutory provisions; and
- (e) the health and safety consequences for those employees of the introduction (including the planned introduction) of new technologies into the workplace.

5 Persons to be consulted

[SI 1996/1513/4]

- (1) The consultation required by regulation 3 is consultation with either —

⁴ SD 2025/xxxx?

⁵ SD 2003/0877, relevantly amended by SD 2025/0091.

- (a) the employees directly; or
 - (b) representatives of employee safety.
- (2) Where an employer consults representatives of employee safety the employer must inform the employees represented by those representatives of —
 - (a) the names of those representatives; and
 - (b) the group of employees represented by those representatives.
- (3) An employer must not consult a person as a representative of employee safety if —
 - (a) that person has notified the employer that he or she does not intend to represent the group of employees for the purposes of such consultation;
 - (b) that person has ceased to be employed in the group of employees for whom he or she was a representative of employee safety;
 - (c) the period for which that person was elected has expired without that person being re-elected; or
 - (d) that person has become incapacitated from carrying out his or her functions under these Regulations,and where, in accordance with this paragraph, an employer discontinues consultation with that person the employer must inform the employees in the group concerned of that fact.
- (4) Where an employer, who has been consulting representatives of employee safety, decides to consult employees directly the employer must inform the employees and the representatives of that fact.

6 Duty of employer to provide information

[SI 1996/1513/5]

- (1) Where an employer consults employees directly, the employer must, subject to paragraph (3), make available to those employees such information, within the employer's knowledge, as is necessary to enable them to participate fully and effectively in the consultation.
- (2) Where an employer consults representatives of employee safety, the employer must, subject to paragraph (3), make available to those representatives such information, within the employer's knowledge, as is —
 - (a) necessary to enable them to participate fully and effectively in the consultation and in the carrying out of their functions under these Regulations;
 - (b) contained in any record which the employer is required to keep by regulation 13 of the Reporting of Injuries, Diseases and Dangerous

Occurrences Regulations 2025⁶ and which relates to the workplace or the group of employees represented by those representatives.

- (3) Nothing in paragraph (1) or (2) requires an employer to make available any information —
- (a) the disclosure of which would be against the interests of national security (whether of the Island or of the United Kingdom);
 - (b) which could not be disclosed without contravening a prohibition imposed by or under any enactment;
 - (c) relating specifically to an individual, unless the individual has consented to its being disclosed;
 - (d) the disclosure of which would, for reasons other than its effect on health or safety, cause substantial injury to the employer's undertaking or, where the information was supplied to the employer by some other person, to the undertaking of that other person; or
 - (e) obtained by the employer for the purpose of bringing, prosecuting or defending any legal proceedings,
- or to provide or allow the inspection of any document or part of a document which is not related to health or safety.

7 Functions of representatives of employee safety

[SI 1996/1513/6]

Where an employer consults representatives of employee safety then, for the period for which that representative is so consulted, each of those representatives has the following functions —

- (a) to make representations to the employer on potential hazards and dangerous occurrences at the workplace which affect, or could affect, the group of employees he or she represents;
- (b) to make representations to the employer on general matters affecting the health and safety at work of the group of employees he or she represents and, in particular on such matters about which he or she is consulted by the employer under regulation 3; and
- (c) to represent the group of employees he or she represents in consultations at the workplace with inspectors appointed under section 19(1) of the 1974 Act.

⁶ SD 2025/yyyy.

8 Training, time off and facilities for representatives of employee safety and time off for candidates

[SI 1996/1513/7]

- (1) Where an employer consults representatives of employee safety, the employer must —
 - (a) ensure that each of those representatives is provided with such training in respect of that representative's functions under these Regulations as is reasonable in all the circumstances and the employer must meet any reasonable costs associated with such training including travel and subsistence costs; and
 - (b) permit each of those representatives to take such time off with pay during that representative's working hours as is necessary for the purpose of that representative performing his or her functions under these Regulations or undergoing any training pursuant to paragraph (1)(a).
- (2) An employer must permit a candidate standing for election as a representative of employee safety reasonable time off with pay during that person's working hours in order to perform his or her functions as such a candidate.
- (3) Schedules 1 and 2 (which respectively concern pay for time off and the Employment and Equality Tribunal) have effect.
- (4) An employer must provide such other facilities and assistance as a representative of employee safety may reasonably require for the purpose of carrying out his or her functions under these Regulations.

9 Amendment of the Employment Act 2006

[SI 1996/1513/8]

In section 61 (health and safety cases: right not to suffer detriment) of the Employment Act 2006, after subsection (1)(b) insert —

- 61A**(ba) the employee took part (or proposed to take part) in consultation with the employer under the Health and Safety (Consultation with Employees) Regulations 2025⁷ or in an election of representatives of employee safety within the meaning of those Regulations (whether as a candidate or otherwise), **61A**.

10 Exclusion of civil liability

[SI 1996/1513/9]

Breach of a duty imposed by these Regulations does not, subject to regulation 7(3) and Schedule 2, confer any right of action in any civil proceedings.

⁷ SD 2025/xxxx.

11 Disapplication to sea-going ships

[SI 1996/1513/12]

These Regulations do 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.

MADE

CLARE BARBER

Minister for Environment, Food and Agriculture

SCHEDULE 1

PAY FOR TIME OFF

[Regulation 8(3)]

1. Subject to paragraph 3, where a person is permitted to take time off in accordance with regulation 7(1)(b) or 7(2), the person's employer must pay him or her —
 - (a) where the person's remuneration for the work the employee would ordinarily have been doing during that time does not vary with the amount of work done, as if he or she had worked at that work for the whole of that time;
 - (b) where the person's remuneration for that work varies with the amount of work done, an amount calculated by reference to the average hourly earnings for that work (ascertained in accordance with paragraph 2).
2. The average hourly earnings referred to in paragraph 1(b) are the average hourly earnings of the person concerned or, if no fair estimate can be made of those earnings, the average hourly earnings for work of that description of persons in comparable employment with the same employer or, if there are no such persons, a figure of average hourly earnings which is reasonable in all the circumstances.
3. Any payment to a person by an employer in respect of a period of time off —
 - (a) if it is a payment which discharges any liability which the employer may have under section 35 of the Employment Act 2006, in respect of that period, also discharges the employer's liability in respect of the same period under regulation 7(1)(b) or 7(2);
 - (b) if it is a payment under any contractual obligation, goes towards discharging the employer's liability in respect of the same period under regulation 7(1)(b) or 7(2);
 - (c) if it is a payment under regulation 7(1)(b) or 7(2), goes towards discharging any liability of the employer to pay contractual remuneration in respect of the same period.

SCHEDULE 2

PROVISIONS AS TO THE EMPLOYMENT AND EQUALITY TRIBUNAL

[Regulation 8(3)]

1. The Employment and Equality Tribunal (referred to in this Schedule as “the tribunal”) has jurisdiction to determine complaints in accordance with the following provisions of this Schedule.
2. A person (referred to in this Schedule as the “complainant”) may present a complaint to an employment tribunal that —
 - (a) his or her employer has failed to permit him or her to take time off in accordance with regulation 7(1)(b) or 7(2); or
 - (b) his or her employer has failed to pay him or her in accordance with regulation 7(1)(b) or 7(2) and Schedule 1.
3. The tribunal must not consider a complaint under paragraph 2 unless it is presented within 3 months of the date when the failure occurred or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented within the period of 3 months.
4. If the tribunal finds a complaint under paragraph 2(a) well-founded, the tribunal must make a declaration to that effect and may make an award of compensation to be paid by the employer to the complainant which must be of such amount as the tribunal considers just and equitable in all the circumstances having regard to the employer’s default in failing to permit time off to be taken by the complainant and to any loss sustained by the complainant which is attributable to the matters complained of.
5. Where on a complaint under paragraph 2(b) the tribunal finds that the employer has failed to pay the complainant the whole or part of the amount required to be paid in accordance with regulation 7(1)(b) or 7(2) and Schedule 1, the tribunal must order the employer to pay the complainant the amount which the tribunal finds due to the complainant.

*EXPLANATORY NOTE**(This note is not part of the Regulations)*

Regulations 1, 2 and 3 provide, respectively for the title and commencement of these Regulations and the interpretation of terms used in them.

Regulation 4 requires employers to consult their employees in good time on matters relating to their health and safety at work and, in particular, on certain specific issues.

Regulation 5 provides that consultation must be either with the employees directly or, in respect of any group of employees, with representatives elected by that group (referred to in the Regulations as “representatives of employee safety”).

Regulation 6 requires an employer to make certain information available to those whom the employer consults.

Regulation 7 sets out the functions of elected representatives of employee safety who are consulted by their employer.

Regulation 8 gives such representatives the right to a reasonable amount of training, paid for by their employer, and to time off with pay for such training and for carrying out their functions. Candidates for election are also given the right to time off with pay. Pay for time off is calculated in accordance with rules set out in Schedule 1. Jurisdiction is conferred on the Employment and Equality Tribunal to adjudicate on claims arising out of such rights (Schedule 2).

Regulation 9 amends the Employment Act 2006 to protect an employee who takes part in consultation with an employer under these Regulations, or who takes part in an election, in cases of dismissal or other detriment arising out of such participation.

Regulation 10 excludes civil liability for most breaches of a duty imposed by these Regulations.

Regulation 11 disapplies these Regulations to the master or crew of sea-going ships.