



Health and Safety at Work etc. Act 1974

1974 CHAPTER 37

PART I

HEALTH, SAFETY AND WELFARE IN CONNECTION WITH WORK, AND CONTROL
OF DANGEROUS SUBSTANCES AND CERTAIN EMISSIONS INTO THE ATMOSPHERE

Health and safety regulations and approved codes of practice

15 Health and safety regulations

- (1) Subject to the provisions of section 50, the Secretary of State shall have power to make regulations under this section (in this part referred to as "health and safety regulations") for any of the general purposes of this Part except as regards matters relating exclusively to agricultural operations.
- (2) Without prejudice to the generality of the preceding subsection, health and safety regulations may for any of the general purposes of this Part make provision for any of the purposes mentioned in Schedule 3.
- (3) Health and safety regulations—
 - (a) may repeal or modify any of the existing statutory provisions;
 - (b) may exclude or modify in relation to any specified class of case any of the provisions of sections 2 to 9 or any of the existing statutory provisions;
 - (c) may make a specified authority or class of authorities responsible, to such extent as may be specified, for the enforcement of any of the relevant statutory provisions.
- (4) Health and safety regulations—
 - (a) may impose requirements by reference to the approval of the Commission or any other specified body or person;
 - (b) may provide for references in the regulations to any specified document to operate as references to that document as revised or re-issued from time to time.

- (5) Health and safety regulations—
- (a) may provide (either unconditionally or subject to conditions, and with or without limit of time) for exemptions from any requirement or prohibition imposed by or under any of the relevant statutory provisions;
 - (b) may enable exemptions from any requirement or prohibition imposed by or under any of the relevant statutory provisions to be granted (either unconditionally or subject to conditions, and with or without limit of time) by any specified person or by any person authorised in that behalf by a specified authority.
- (6) Health and safety regulations—
- (a) may specify the persons or classes of persons who, in the event of a contravention of a requirement or prohibition imposed by or under the regulations, are to be guilty of an offence, whether in addition to or to the exclusion of other persons or classes of persons;
 - (b) may provide for any specified defence to be available in proceedings for any offence under the relevant statutory provisions either generally or in specified circumstances;
 - (c) may exclude proceedings on indictment in relation to offences consisting of a contravention of a requirement or prohibition imposed by or under any of the existing statutory provisions, sections 2 to 9 or health and safety regulations;
 - (d) may restrict the punishments which can be imposed in respect of any such offence as is mentioned in paragraph (c) above.
- (7) Without prejudice to section 35, health and safety regulations may make provision for enabling offences under any of the relevant statutory provisions to be treated as having been committed at any specified place for the purpose of bringing any such offence within the field of responsibility of any enforcing authority or conferring jurisdiction on any court to entertain proceedings for any such offence.
- (8) Health and safety regulations may take the form of regulations applying to particular circumstances only or to a particular case only (for example, regulations applying to particular premises only).
- (9) If an Order in Council is made under section 84(3) providing that this section shall apply to or in relation to persons, premises or work outside Great Britain then, notwithstanding the Order, health and safety regulations shall not apply to or in relation to aircraft in flight, vessels, hovercraft or offshore installations outside Great Britain or persons at work outside Great Britain in connection with submarine cables or submarine pipelines except in so far as the regulations expressly so provide.
- (10) In this section " specified " means specified in health and safety regulations.

16 Approval of codes of practice by the Commission

- (1) For the purpose of providing practical guidance with respect to the requirements of any provision of sections 2 to 7 or of health and safety regulations or of any of the existing statutory provisions, the Commission may, subject to the following subsection and except as regards matters relating exclusively to agricultural operations—
- (a) approve and issue such codes of practice (whether prepared by it or not) as in its opinion are suitable for that purpose;

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- (b) approve such codes of practice issued or proposed to be issued otherwise than by the Commission as in its opinion are suitable for that purpose.
- (2) The Commission shall not approve a code of practice under subsection (1) above without the consent of the Secretary of State, and shall, before seeking his consent, consult—
 - (a) any government department or other body that appears to the Commission to be appropriate (and, in particular, in the case of a code relating to electromagnetic radiations, the National Radiological Protection Board); and
 - (b) such government departments and other bodies, if any, as in relation to any matter dealt with in the code, the Commission is required to consult under this section by virtue of directions given to it by the Secretary of State.
- (3) Where a code of practice is approved by the Commission under subsection (1) above, the Commission shall issue a notice in writing—
 - (a) identifying the code in question and stating the date on which its approval by the Commission is to take effect; and
 - (b) specifying for which of the provisions mentioned in subsection (1) above the code is approved.
- (4) The Commission may—
 - (a) from time to time revise the whole or any part of any code of practice prepared by it in pursuance of this section;
 - (b) approve any revision or proposed revision of the whole or any part of any code of practice for the time being approved under this section ;and the provisions of subsections (2) and (3) above shall, with the necessary modifications, apply in relation to the approval of any revision under this subsection as they apply in relation to the approval of a code of practice under subsection (1) above.
- (5) The Commission may at any time with the consent of the Secretary of State withdraw its approval from any code of practice approved under this section, but before seeking his consent shall consult the same government departments and other bodies as it would be required to consult under subsection (2) above if it were proposing to approve the code.
- (6) Where under the preceding subsection the Commission withdraws its approval from a code of practice approved under this section, the Commission shall issue a notice in writing identifying the code in question and stating the date on which its approval of it is to cease to have effect.
- (7) References in this Part to an approved code of practice are references to that code as it has effect for the time being by virtue of any revision of the whole or any part of it approved under this section.
- (8) The power of the Commission under subsection (1)(b) above to approve a code of practice issued or proposed to be issued otherwise than by the Commission shall include power to approve a part of such a code of practice; and accordingly in this Part "code of practice" may be read as including a part of such a code of practice.

17 Use of approved codes of practice in criminal proceedings

- (1) A failure on the part of any person to observe any provision of an approved code of practice shall not of itself render him liable to any civil or criminal proceedings ; but where in any criminal proceedings a party is alleged to have committed an offence by

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reason of a contravention of any requirement or prohibition imposed by or under any such provision as is mentioned in section 16(1) being a provision for which there was an approved code of practice at the time of the alleged contravention, the following subsection shall have effect with respect to that code in relation to those proceedings.

- (2) Any provision of the code of practice which appears to the court to be relevant to the requirement or prohibition alleged to have been contravened shall be admissible in evidence in the proceedings; and if it is proved that there was at any material time a failure to observe any provision of the code which appears to the court to be relevant to any matter which it is necessary for the prosecution to prove in order to establish a contravention of that requirement or prohibition, that matter shall be taken as proved unless the court is satisfied that the requirement or prohibition was in respect of that matter complied with otherwise than by way of observance of that provision of the code.
- (3) In any criminal proceedings—
 - (a) a document purporting to be a notice issued by the Commission under section 16 shall be taken to be such a notice unless the contrary is proved; and
 - (b) a code of practice which appears to the court to be the subject of such a notice shall be taken to be the subject of that notice unless the contrary is proved.