
STATUTORY INSTRUMENTS

1975 No. 335

HEALTH AND SAFETY

The Health and Safety Inquiries (Procedure) Regulations 1975

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| <i>Made</i> | - - - - | <i>7th March 1975</i> |
| <i>Laid before Parliament</i> | | <i>18th March 1975</i> |
| <i>Coming into Operation</i> | | <i>1st May 1975</i> |

The Secretary of State in exercise of the powers conferred on him by sections 14(3) and (4) and 82(3)(a) of the Health and Safety at Work etc. Act 1974 and of all other powers enabling him in that behalf, and after consultation with the Health and Safety Commission and such other bodies as appeared to him to be appropriate, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Health and Safety Inquiries (Procedure) Regulations 1975 and shall come into operation on 1st May 1975.

Interpretation

2.—(1) In these Regulations—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“appointed person” means a person appointed by the Commission or by the appropriate Agriculture Minister, as the case may be, to hold an inquiry;

“the appropriate Agriculture Minister” has the meaning assigned by section 53(1) of the 1974 Act;

“the Commission” means the Health and Safety Commission;

“enforcing authority” means an enforcing authority as defined in section 18(7) of the 1974 Act;

“the Executive” means the Health and Safety Executive;

“inquiry” means an inquiry to which these Regulations apply;

“trade union” and “employers' association” have the meanings assigned by section 28 of the Trade Union and Labour Relations Act 1974.

(2) The Interpretation Act 1889 shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

Application of Regulations

3.—(1) These Regulations shall have effect with respect to the proceedings at or in connection with inquiries held under section 14(2)(b) of the 1974 Act or under that provision as modified in relation to agriculture by section 32 of and Schedule 4 to that Act.

(2) In their application to inquiries held under section 14(2)(b) of the 1974 Act as so modified, Regulations 4, 5 and 10 shall have effect as if for the references to the Commission there were substituted references to the appropriate Agriculture Minister.

Notification of inquiry

4.—(1) A date, time and place for the holding of the inquiry shall be fixed and may be varied by the Commission, who shall give not less than 28 days' notice in writing of such date, time and place to every person entitled to appear at the inquiry whose name and address are known to the Commission:

Provided that—

- (i) with the consent of all such persons, the Commission may give such lesser period of notice as shall be agreed with those persons; and
- (ii) where it becomes necessary or advisable to vary the time or place fixed for the inquiry, the Commission shall give such notice of the variation as may appear to it to be reasonable in the circumstances.

(2) The notice given under paragraph (1) of this Regulation shall state the name of the appointed person and the names of any assessors appointed to assist him in the inquiry.

(3) Without prejudice to the foregoing provisions of this Regulation the Commission shall also for the purpose of notifying persons who may be concerned of the holding of the inquiry, take one or more of the following steps, namely—

- (a) publish notice of the inquiry in one or more newspapers, including, where appropriate, newspapers circulating in the locality in which the subject matter of the inquiry arose; and
- (b) give such other notice of the inquiry as appears to the Commission to be appropriate,

and the requirements as to the period of notice contained in paragraph (1) of this Regulation shall not apply to any such notices.

Appearances at inquiry

5.—(1) The persons entitled to appear at the inquiry shall be—

- (a) the Commission;
- (b) any enforcing authority concerned;
- (c) where the inquiry relates to any matter arising in Scotland, the Procurator Fiscal;
- (d) any employers' association or trade union representing respectively employers or employees who are concerned;
- (e) any person who was injured or suffered damage as a result of the accident, occurrence, situation, or other matter the subject of the inquiry or his personal representatives;
- (f) the owner or occupier of any premises in which there occurred or arose the accident, occurrence, situation or other matter the subject of the inquiry;
- (g) any person carrying on activities giving rise to the accident, occurrence, situation or other matter the subject of the inquiry.

(2) Any other person may appear at the discretion of the appointed person.

Representation

6.—(1) A body corporate may appear by its clerk or secretary or by any other officer appointed for the purpose, or by counsel or solicitor, and also, in the case of the Commission, by an officer of the Executive so appointed.

(2) A government department, an employers' association or a trade union may appear by counsel or solicitor or by any other person appointed for the purpose.

(3) Any other person may appear on his own behalf or be represented by counsel or solicitor or any other person.

(4) Where there are two or more persons having a similar interest in the matter under inquiry, the appointed person may allow one or more persons to appear for the benefit of some or all persons so interested.

Power to require attendance of witnesses and production of documents

7.—(1) The appointed person may, either of his own motion or on the application of any person entitled or permitted to appear, cause to be served on any person appearing to him to be likely to be able to give material evidence or to produce any document likely to be material evidence, a notice requiring that person to attend at the inquiry at the time and place specified in the notice to give evidence or produce the document.

(2) A person on whom a notice is served under paragraph (1) of this Regulation may apply to the appointed person either at or before the inquiry to vary or set aside the requirement, and where he does so before the inquiry he shall give notice of his application to the person, if any, who applied for the notice under paragraph (1) to be served.

(3) A notice containing a requirement under paragraph (1) of this Regulation shall contain a reference to the fact that under section 33(2) of the 1974 Act a person who contravenes such a requirement is liable on summary conviction to a fine not exceeding £400.

(4) No person shall be required under this Regulation to attend to give evidence or produce any document, unless the necessary expenses of his attendance are paid or tendered to him.

Procedure at inquiry

8.—(1) Except as otherwise provided in these Regulations, the procedure at and in connection with an inquiry shall be in the discretion of the appointed person who shall state at the commencement of the hearing of the procedure which, subject to consideration of any submission by the persons appearing at the inquiry, he proposes to adopt and shall inform those persons what he proposes as regards any site inspection arising out of the hearing.

(2) Except as provided in paragraph (3) of this Regulation, the inquiry shall be held in public.

(3) The appointed person—

(a) shall, to the extent to which he has been so directed in writing by a Minister of the Crown, hold the inquiry otherwise than in public for the purpose of hearing evidence relating to matters specified in the direction, being matters of such a nature that it would, in the opinion of the Minister, be against the interests of national security to allow the evidence to be given in public; and

(b) may, on application made to him in that behalf, hold the inquiry otherwise than in public to such extent as he considers necessary for the purpose of hearing evidence, the giving of which is in his opinion likely to disclose information relating to a trade secret,

and information disclosed to any person by the hearing of evidence in the circumstances mentioned in sub-paragraphs (a) or (b) above shall not be disclosed by him except for the purposes of the inquiry:

Provided —

- (i) that a member of the Council on Tribunals or of its Scottish Committee in his capacity as such shall be entitled to attend the hearing in any case; and
 - (ii) that a representative of any such employers' association or trade union as is mentioned in Regulation 5(1)(d) in his capacity as such shall be entitled to attend the hearing in a case falling within sub-paragraph (b) above.
- (4) Persons entitled or permitted to appear shall be heard in such order as the appointed person may determine.
- (5) Persons entitled to appear shall be entitled to make an opening statement, to call evidence and to cross-examine persons giving evidence, but any other person appearing at the inquiry may do so only to the extent permitted by the appointed person.
- (6) Where the appointed person so requires, witnesses shall give evidence on oath, and for that purpose the appointed person may administer an oath in due form.
- (7) Any evidence may be admitted at the discretion of the appointed person, who may direct that documents to be tendered in evidence may be inspected by any person entitled or permitted to appear at the inquiry and that facilities be afforded him to take or obtain copies thereof.
- (8) The appointed person shall be entitled (subject to disclosure thereof at the inquiry and making available copies thereof to the persons appearing at the inquiry) to take into account any written representations or statement received by him before the inquiry from any person.
- (9) The appointed person may from time to time adjourn the inquiry, and where he does so shall give reasonable notice to every person entitled or permitted to appear at the inquiry of the date, time and place of the adjourned inquiry, provided that where the date, time and place of the adjourned inquiry are announced at the inquiry, no further notice shall be required.

Site inspections

9. The appointed person and any person appointed to assist him in the inquiry may, where necessary for the purpose of the inquiry, at any reasonable time enter and make an inspection of any premises to which the inquiry relates and anything in them.

Procedure after inquiry

10.—(1) The appointed person shall after the close of the inquiry make a report in writing to the Commission, which shall include the appointed person's findings of fact and his recommendations if any or his reason for not making any recommendation.

(2) Except where the said report is to be published, in whole or in part, in pursuance of section 14(5) of the 1974 Act, the Commission shall send to any person who appeared at the inquiry a copy of the report or so much of it as the Commission thinks fit.

Notices

11. The provisions of section 46 of the 1974 Act shall apply in relation to the service of notices required or authorised to be served or given by these Regulations as they apply to notices required or authorised to be served or given by the 1974 Act.

Signed by order of the Secretary of State.

7th March 1975

Harold Walker
Joint Parliamentary Under Secretary of State
Department of Employment

EXPLANATORY NOTE

Section 14 of the Health and Safety at Work etc. Act 1974 gives power to the Health and Safety Commission, with the consent of the Secretary of State, to direct an inquiry to be held into any accident, occurrence, situation or other matter whatsoever which the Commission thinks it necessary or expedient to investigate for any of the general purposes of Part I of that Act or with a view to the making of regulations for those purposes.

These Regulations prescribe the procedure to be followed at or in connection with such inquiries and the powers of the persons appointed to hold such inquiries.