
STATUTORY INSTRUMENTS

1993 No. 2379

HEALTH AND SAFETY

The Ionising Radiations (Outside Workers) Regulations 1993

Made - - - - *29th September 1993*

Laid before Parliament *7th October 1993*

Coming into force - - *1st January 1994*

The Secretary of State, being the designated(1) Minister for the purpose of section 2(2) of the European Communities Act 1972(2) in relation to measures relating to the basic safety standards for the health protection of the general public and workers against the dangers from ionising radiation, in the exercise of the powers conferred on him by the said section 2(2) and sections 15(1), (2), (5) (b), (6)(b) and (9) and 82(3)(a) of, and paragraphs 11, 13(3), 14, 15(1) and 16 of Schedule 3 to, the Health and Safety at Work etc. Act 1974(3) (“the 1974 Act”) and of all other powers enabling him in that behalf, for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the 1974 Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as The Ionising Radiations (Outside Workers) Regulations 1993 and shall come into force on 1st January 1994.

Interpretation

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

“the 1985 Regulations” means the Ionising Radiations Regulations 1985(4);

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

“the Basic Safety Standards Directive” means Council Directive 80/836/Euratom(5) laying down the basic safety standards for the health protection of the general public and workers

(1) S.I. 1991/2289.

(2) 1972 c. 68.

(3) 1974 c. 37; sections 15 and 50 were amended by Schedule 15 of the Employment Protection Act 1975 (c. 71), paragraphs 6 and 16 respectively.

(4) S.I. 1985/1333.

(5) OJ No. L246, 17.9.80, p.1.

against the dangers from ionising radiation as amended by Council Directive 84/467/Euratom(6);

“classified person” means—

- (a) in the case of a person employed by an outside undertaking in Great Britain, 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 Northern Ireland 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 Northern Ireland 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 Northern Ireland or that member State;

“controlled area” means—

- (a) in the case of an area situated in Great Britain, 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 Northern Ireland 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 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 Great Britain, 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 Northern Ireland or in another member State, an area in which there is carried out an activity 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 the controlled area of the outside undertaking which employs him);

“radiation passbook” means—

- (a) in the case of an outside worker employed by an outside undertaking in Great Britain, a passbook approved for the purpose of these Regulations by the Executive; or
- (b) in the case of an outside worker employed by an outside undertaking in Northern Ireland or in another member State, a passbook authorised by the competent authority for Northern Ireland 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 unless the context otherwise requires, 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; and
- (b) an employee includes reference to a self-employed person.

(4) Duties under these Regulations imposed upon the operator shall also be imposed upon the manager of a mine or quarry (within, in either case, the meaning of section 180 of the Mines and Quarries Act 1954(7)) in so far as those duties relate to the mine or quarry or part of the mine or quarry of which he is the manager and to matters under his control.

(5) 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(8) in so far as the duties relate to the licensed site.

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

- (a) a reference to a numbered regulation is a reference to the regulation in these Regulations so numbered; and
- (b) a reference to a numbered paragraph is a reference to the paragraph so numbered in the regulation in which that reference occurs.

Application

3.—(1) Without prejudice to the requirements of regulation 4 of the 1985 Regulations (co-operation between employers), regulation 6(1)(b) of these Regulations (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 Great Britain) employed by an outside undertaking established in Northern Ireland 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 Northern Ireland, regulations 13 and 16 of the Ionising Radiations Regulations (Northern Ireland) 1985(9); or
- (b) where the outside undertaking is established in another member State, the legislation in that State implementing Chapters II and III 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 Great Britain.

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

(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 Great Britain.

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

(7) These Regulations shall not extend to Northern Ireland.

(7) 1954 c. 70, amended by S.I. 1993/1897.

(8) 1965 c. 57.

(9) S.R. 1985/273.

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) 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 about 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 Northern Ireland 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 to these Regulations.

(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 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 passbook ceased to be used by the outside worker.

(4) Where the outside undertaking has had the loss of a 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 passbook is kept for at least 5 years from that date.

(6) Where the 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 passbook is issued forthwith to the outside worker and in a case where the passbook has been lost, the new passbook shall be clearly marked with the word “replacement”.

Duties of the operator

6.—(1) It shall be the duty of an operator who has an outside worker undertaking activities in any controlled area under his control, before the commencement of those activities—

- (a) to make suitable arrangements to provide the outside undertaking with the information referred to in regulation 4(1)(a);
- (b) to take all reasonable steps to ensure by reference to the radiation passbook or by other means that the outside worker—
 - (i) has received any specific training required for the activities,

- (ii) is medically fit to undertake the activities, and
 - (iii) has been provided with and has been trained to use any personal protective equipment that may be necessary for the safe performance of the activities.
- (2) It shall be the duty of the operator to ensure that—
- (a) the outside worker receives individual exposure monitoring, appropriate to the nature of the activities;
 - (b) an estimate of the dose received by the outside worker is made; and
 - (c) the radiation passbook is made available to the outside worker at his request.
- (3) Subject to paragraph (4), as soon as is reasonably practicable after the activities referred to in paragraph (1) have been completed, it shall be the duty of the operator to ensure that an estimate of the dose received by the outside worker is entered into the radiation passbook of the outside worker.
- (4) In a case where the operator no longer has access to the passbook of the outside worker when the information required by paragraph (3) becomes available to him, he shall forthwith give that information to the outside undertaking.
- (5) The duty imposed on the operator under paragraph (3) to ensure that an estimate of the dose received by the outside worker is entered into the passbook of the outside worker when the activities have been completed, shall not apply in any case where having regard to—
- (a) the nature and duration of the activities undertaken in the controlled areas under the control of the operator; and
 - (b) the pattern of past and present activities undertaken by the outside worker and the estimates of the dose previously received entered in the passbook,
- and after consulting the outside undertaking, the operator, with the agreement of the outside undertaking, is satisfied that the outside worker will be most unlikely to receive in the month in which the activities are undertaken a radiation dose which exceeds one thirty-sixth part of any annual dose limit for that worker and in such a case the operator shall enter a cumulative estimate of the dose received each month.

Duties of the outside worker

- 7.—(1) It shall be the duty of every outside worker—
- (a) to take reasonable care of the radiation passbook issued to him, and if it is lost report the loss forthwith to the outside undertaking and in such a case co-operate with the outside undertaking in any investigation made in accordance with regulation 5(4);
 - (b) not to misuse the radiation passbook issued to him or falsify or attempt to falsify any of the information contained in it;
 - (c) if he leaves the employment of the outside undertaking or the radiation passbook is full and requires renewal, forthwith to give the passbook to the outside undertaking; and
 - (d) to make the radiation passbook available to the operator of any controlled area in which he undertakes activities and to take the passbook with him when his activities in that controlled area have been completed.
- (2) It shall also be the duty of the outside worker to take such steps as are reasonable for a person in his position to take to ensure that an estimate of the dose that he receives in the course of those activities is either entered in his passbook or notified to the outside undertaking.
- (3) Where an outside worker who has lost a passbook subsequently finds it, he shall forthwith report its finding to the outside undertaking and return that passbook to the undertaking.

Defences under these Regulations

8.—(1) It shall be a defence in any proceedings against an outside undertaking for a breach of a duty under these Regulations for that outside undertaking to show that—

- (a) it had entered into a contract in writing with the operator for him to perform that duty on its behalf; and
- (b) the breach of duty was a result of the operator's failure to fulfil that contract.

(2) It shall be a defence in any proceedings against an operator for a breach of a duty under these Regulations for the operator to show that—

- (a) he had entered into a contract in writing with the outside undertaking for it to perform that duty on his behalf; and
- (b) the breach of duty was a result of the outside undertaking's failure to fulfil that contract.

(3) The person charged shall not, without leave of the court, be entitled to rely on the defence referred to in paragraph (1) or (2) unless, within a period ending 7 clear days before the hearing, he has served on the prosecutor a notice in writing that he intends to rely on the defence and this notice shall be accompanied by a copy of the contract on which he intends to rely and, if that contract is not in English, an accurate translation of that contract into English.

(4) For the purpose of enabling the other party to the contract to be charged with and convicted of an offence by virtue of section 36 of the Health and Safety at Work etc. Act 1974, a person who establishes a defence under this regulation shall nevertheless be treated for the purposes of that section as having committed the offence.

Enforcement and civil liability

9. Insofar as any provision of regulation 4, 5, 6 or 7 is made under section 2 of the European Communities Act 1972—

- (a) the provisions of the Health and Safety at Work etc. Act 1974 which relate to the approval of codes of practice and their use in criminal proceedings, enforcement and offences shall apply to that provision as if that provision had been made under section 15 of that Act; and
- (b) that provision shall, in the event of a breach of any duty imposed by it, confer a right of action in civil proceedings insofar as that breach of duty causes damage.

Exemption certificates

10.—(1) Subject to paragraph (2), the Executive may, by a certificate in writing, exempt—

- (a) any person or class of persons; or
- (b) any premises or class of premises,

from all or any of the requirements or prohibitions imposed by these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked by a certificate in writing at any time.

(2) The Executive shall not grant any such exemption unless, having regard to the circumstances of the case and in particular to—

- (a) the conditions, if any, that it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactments which apply to the case,

it is satisfied that—

- (c) the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it; and

- (d) compliance with the fundamental radiation protection provisions underlying regulations 6(1) and (2), 7, 8(1) and (2), 9(1), 13(2), 16(3), 24(1), 27(1) and 33(1) of the 1985 Regulations will be achieved.

Extension outside Great Britain

11. These Regulations shall apply to any work outside Great Britain to which sections 1 to 59 and 80 to 82 of the Health and Safety at Work etc. Act 1974 apply by virtue of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 1989⁽¹⁰⁾ as they apply to work within Great Britain.

Modifications relating to the Ministry of Defence etc.

12.—(1) In this regulation any reference to—

- (a) “visiting forces” is a reference to visiting forces within the meaning of any provision of Part 1 of the Visiting Forces Act 1952⁽¹¹⁾; and
- (b) “headquarters or organisation” is a reference to a headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964⁽¹²⁾.

(2) The Secretary of State for Defence may, in the interests of national security, by a certificate in writing exempt—

- (a) Her Majesty’s Forces;
- (b) visiting forces;
- (c) any member of a visiting force working in or attached to any headquarters or organisation; or
- (d) any person engaged in working with ionising radiation for, or on behalf of, the Secretary of State for Defence,

from all or any of the requirements or prohibitions imposed by these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by a certificate in writing, except that, where any such exemption is granted, suitable arrangements shall be made for the assessment and recording of doses of ionising radiation received by persons to whom the exemption relates.

Signed by order of the Secretary of State.

29th September 1993

Lord Henley
Parliamentary Under Secretary of State,
Department of Employment

⁽¹⁰⁾ S.I. 1989/840.

⁽¹¹⁾ 1952 c. 67.

⁽¹²⁾ 1964 c. 5.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Regulation 5(1)

PARTICULARS TO BE ENTERED IN THE RADIATION PASSBOOK

1. Individual serial number of the passbook.
2. A statement that the passbook has been approved by the Executive for the purpose of these Regulations.
3. Date of issue of the passbook by the approved dosimetry service.
4. The name, telephone number and mark of endorsement of the issuing approved dosimetry service.
5. The name, address, telephone and telex/fax number of the outside undertaking.
6. Full name (surname, forenames), date of birth, gender and national insurance number of the outside worker to whom the passbook has been issued.
7. Date of the last medical review of the outside worker and the relevant classification in the health record maintained under regulation 16 of the 1985 Regulations as fit, fit subject to conditions (which shall be specified and, for the purposes of these Regulations, shall include any special dose limit applicable to the outside worker) or unfit, name and signature of an authorised person and date of entry.
8. The cumulative dose assessment in mSv for the year to date for the outside worker, external (whole body, organ or tissue) and/or internal as appropriate and the date of the end of the last assessment period.
9. In respect of activities performed by the outside worker, (except where regulation 6(5) applies)
—
 - (a) the name and address of the relevant operator;
 - (b) the period covered by the performance of the activities;
 - (c) estimated dose information, which shall be, as appropriate—
 - (i) an estimate of any whole body effective dose equivalent in mSv received by the outside worker;
 - (ii) in the event of non-uniform exposure, an estimate of the dose equivalent in mSv to organs and tissues as appropriate;
 - (iii) in the event of internal exposure, an estimate of the committed dose in mSv;
 - (d) the name and signature of the person making the entry, who shall be a person authorised by the operator to make such entries.

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations implement as respects Great Britain Council Directive 90/641/Euratom (OJNo. L349, 13.12.90, p.23) on the operational protection of outside workers exposed to the risk of ionising radiation during their activities in controlled areas.

2. The Regulations have effect to protect the health of—
 - (a) an outside worker employed by an outside undertaking established in Great Britain who undertakes activities in a controlled area in the Communities under the control of an operator; and
 - (b) an outside worker employed by an outside undertaking established in the Communities who undertakes activities in a controlled area in Great Britain under the control of an operator.

3. In addition to defining the terms used in these Regulations, regulation 2 applies certain of the interpretation provisions in regulation 2 of the Ionising Radiations Regulations 1985 (“the 1985 Regulations”) to these Regulations.

4. Regulation 4 imposes duties on the outside undertaking to obtain from the operator information about the controlled areas in which an outside worker employed by it is to undertake activities, about the risks which might arise in the controlled area and to ensure that the dose of ionising radiation received by the outside worker is estimated. By regulation 5 the outside undertaking is required to provide the outside worker with a radiation passbook uniquely identified into which the particulars set out in the Schedule are to be entered.

5. Under regulation 6, the operator is required to—
 - (a) satisfy himself that the outside worker is able to undertake the activities safely;
 - (b) to provide suitable radiation monitoring; and
 - (c) to enter into the outside worker’s radiation passbook an estimate of the dose of ionising radiation received by the outside worker in the course of those activities.

6. The outside worker is required by regulation 7 to look after the radiation passbook and take reasonable steps to ensure that it is completed by the operator for whom he undertakes activities.

7. Regulation 8 provides for a defence against a breach of duty under these Regulations where—
 - (a) the outside undertaking has entered into a written contract with the operator for him to perform that duty; or
 - (b) the operator has entered into a written contract with the outside undertaking for it to perform that duty,

and, in either case, the breach of duty was a result of a failure by the party undertaking to perform that duty under the contract.

8. The Regulations also make provisions relating to exemption certificates (regulation 10), extension outside Great Britain (regulation 11) and modifications relating to the Ministry of Defence etc. (regulation 12).