
STATUTORY INSTRUMENTS

1999 No. 3232

The Ionising Radiations Regulations 1999

PART VII

DUTIES OF EMPLOYEES AND MISCELLANEOUS

Duties of employees

34.—(1) An employee who is engaged in work with ionising radiation shall not knowingly expose himself or any other person to ionising radiation to an extent greater than is reasonably necessary for the purposes of his work, and shall exercise reasonable care while carrying out such work.

(2) Every employee who is engaged in work with ionising radiation and for whom personal protective equipment is provided pursuant to regulation 8(2)(c) shall—

- (a) make full and proper use of any such personal protective equipment;
- (b) forthwith report to his employer any defect he discovers in any such personal protective equipment; and
- (c) take all reasonable steps to ensure that any such personal protective equipment is returned after use to the accommodation provided for it.

(3) It shall be the duty of every outside worker not to misuse the radiation passbook issued to him or falsify or attempt to falsify any of the information contained in it.

(4) Any employee to whom regulation 21(1) or regulation 12(2)(b) relates shall comply with any reasonable requirement imposed on him by his employer for the purposes of making the measurements and assessments required under regulation 21(1) and regulation 23(1).

(5) An employee who is subject to medical surveillance under regulation 24 shall, when required by his employer and at the cost of the employer, present himself during his working hours for such medical examination and tests as may be required for the purposes of paragraph (2) of that regulation and shall provide the appointed doctor or employment medical adviser with such information concerning his health as the appointed doctor or employment medical adviser may reasonably require.

(6) Where an employee has reasonable cause to believe that—

- (a) he or some other person has received an overexposure;
- (b) an occurrence mentioned in paragraph (1) or (3) of regulation 30 has occurred; or
- (c) an incident mentioned in regulation 32(6) has occurred,

he shall forthwith notify his employer of that belief.

Approval of dosimetry services

35.—(1) The Executive (or such other person as may from time to time be specified in writing by the Executive) may, by a certificate in writing, approve (in accordance with such criteria as may from time to time be specified by the Executive) a suitable dosimetry service for such of the purposes of these Regulations as are specified in the certificate.

(2) A certificate made pursuant to paragraph (1) may be made subject to conditions and may be revoked in writing at any time.

(3) The Executive (or such other person as may from time to time be specified in writing by the Executive) may at such suitable periods as it considers appropriate carry out a re-assessment of any approval granted pursuant to paragraph (1).

Defence on contravention

36.—(1) In any proceedings against an employer for an offence under regulation 6(2), it shall be a defence for that employer to prove that—

- (a) he neither knew nor had reasonable cause to believe that he had carried out or might be required to carry out work subject to notification under that paragraph; and
- (b) in a case where he discovered that he had carried out or was carrying out work subject to notification under that paragraph, he had forthwith notified the Executive of the information required by that paragraph.

(2) In any proceedings against an employer for an offence under regulation 7, it shall be a defence for that employer to prove that—

- (a) he neither knew nor had reasonable cause to believe that he had commenced a new activity involving work with ionising radiation; and
- (b) in a case where he had discovered that he had commenced a new activity involving work with ionising radiation, he had as soon as practicable made an assessment as required by the said regulation 7.

(3) In any proceedings against an employer for an offence under regulation 27(2) it shall be a defence for that employer to prove that—

- (a) he had received and reasonably relied on a written undertaking from the supplier of the article concerned that it complied with the requirements of that paragraph; and
- (b) he had complied with the requirements of paragraph (3) of that regulation.

(4) In any proceedings against an employer of an outside worker for a breach of a duty under these Regulations it shall be a defence for that employer to show that—

- (a) he had entered into a contract in writing with the employer who had designated an area as a controlled area and in which the outside worker was working or was to work for that employer to perform that duty on his behalf; and
- (b) the breach of duty was a result of the failure of the employer referred to in subparagraph (a) above to fulfil that contract.

(5) In any proceedings against any employer who has designated a controlled area in which any outside worker is working or is to work for a breach of a duty under these Regulations it shall be a defence for that employer to show that—

- (a) he had entered into a contract in writing with the employer of an outside worker for that employer to perform that duty on his behalf; and
- (b) the breach of duty was a result of the failure of the employer referred to in subparagraph (a) above to fulfil that contract.

(6) The person charged shall not, without leave of the court, be entitled to rely on the defence referred to in paragraph (4) or (5) unless, within a period ending seven 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.

(7) For the purposes of enabling the other party 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.

Exemption certificates

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

- (a) any person or class of persons;
- (b) any premises or class of premises; or
- (c) any equipment, apparatus or substance or class of equipment, apparatus or substance,

from any requirement or prohibition 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 an exemption unless, having regard to the circumstances of the case and in particular to—

- (a) the conditions, if any, which 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 8(1) and (2)(a), 11, 12(1), 16(1) and 3, 19(1), 20(1), 21(1), 24(2) and 32(1) will be achieved.

Extension outside Great Britain

38.—(1) Subject to paragraph (2), 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 1995(1) as they apply to work within Great Britain.

(2) For the purposes of paragraph (1), in any case where it is not reasonably practicable for an employer to comply with the requirements of these Regulations in so far as they relate to functions being performed by an appointed doctor or employment medical adviser or by an approved dosimetry service, it shall be sufficient compliance with any such requirements if the employer makes arrangements affording an equivalent standard of protection for his employees and those arrangements are set out in local rules.

Transitional provisions

39.—(1) Where on or before 26th February 2000 an employer commences for the first time work which is required to be notified under regulation 6(2), it shall be sufficient compliance with that regulation if the employer notifies the Executive and notifies the required particulars before 29th January 2000.

(2) A contingency plan made pursuant to the requirements of regulation 27 of the Ionising Radiations Regulations 1985(2) and which complied with that regulation immediately before the

(1) [S.I. 1995/263](#).

(2) [S.I. 1985/1333](#).

coming into force of these Regulations shall, for the purposes of regulation 12, be treated as if made pursuant to paragraph (1) of that regulation.

(3) A certificate of approval granted by the Executive in respect of an approved dosimetry service under regulation 15 of the Ionising Radiations Regulations 1985 and which is valid immediately before the date of the coming into force of these Regulations, shall continue in force and shall be treated as if it had been granted under regulation 35 of these Regulations.

(4) A radiation passbook approved for the purposes of the Ionising Radiations (Outside Workers) Regulations 1993⁽³⁾ and issued prior to 30th April 2000 in respect of an outside worker employed by an employer in Great Britain and which was at that date valid shall remain valid for such time as the worker to whom the passbook relates continues to be employed by the same employer.

(5) A doctor appointed in writing by the Executive prior to the coming into force of these Regulations for the purposes of the Ionising Radiations Regulations 1985 shall, until such time as the period specified in the appointment expires or the appointment is revoked, be deemed to have been appointed for the purposes of these Regulations.

(6) Until 31st December 2004, an individual who or body which had before the coming into force of these Regulations been appointed by an employer as a radiation protection adviser for the purposes of the Ionising Radiations Regulations 1985 shall be deemed to meet the criteria of competence specified by the Executive for such advisers under these Regulations.

(7) A health record which was created prior to the coming into force of these Regulations pursuant to a requirement of the Ionising Radiations Regulations 1985 shall remain valid for a period of 12 months from the date of the last entry made in it or for such shorter period as may have been specified in that record for the validity of the last entry by an appointed doctor or employment medical adviser under those Regulations, and such record shall for that period be deemed to have been kept for the purposes of regulation 24(3).

(8) A certificate of exemption issued by the Executive pursuant to paragraph (6) of regulation 27 of the Ionising Radiations Regulations 1985 and which is valid at the coming into force of these Regulations shall continue in force until such time as it is revoked by the Executive, save that the exemption from the requirements of regulation 7 of the said 1985 Regulations shall be deemed to be an exemption from the requirements of regulation 11 of these Regulations.

(9) Where the Executive has reasonable cause to believe that the dose received by an employee was much greater or much less than that shown in his dose record (such record having been made and maintained in accordance with regulation 13 of the Ionising Radiations Regulations 1985) the Executive may, until 30th April 2000, approve a special entry into the dose record and in such a case the employer shall arrange for the appropriate approved dosimetry service to enter the special entry in that dose record and shall give a copy of the amended dose record to the employee to whom it relates.

Modifications relating to the Ministry of Defence etc.

40.—(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⁽⁴⁾; 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⁽⁵⁾.

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

(3) [S.I. 1993/2379](#).

(4) [1952 c. 67](#).

(5) [1964 c. 5](#).

- (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 work 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.

- (3) Sub-paragraph (i) of regulation 21(3) shall not apply in relation to a practice carried out—
 - (a) by or on behalf of the Secretary of State for Defence;
 - (b) by a visiting force; or
 - (c) by any member of a visiting force in or attached to any headquarters or organisation.

(4) Regulations 5 and 6 shall not apply in relation to work carried out by visiting forces or any headquarters or organisation on premises under the control of such visiting force, headquarters or organisation, as the case may be, or on premises under the control of the Secretary of State for Defence.

(5) The requirements of regulation 6 to notify the particulars specified in sub-paragraphs (d) and (e) of Schedule 2 or any of the particulars specified in Schedule 3 shall not have effect in any case where the Secretary of State for Defence decides that to do so would be against the interests of national security or where suitable alternative arrangements have been agreed with the Executive.

(6) Regulation 6(4) shall not apply to an employer in relation to work with ionising radiation undertaken for or on behalf of the Secretary of State for Defence, visiting forces or any headquarters or organisation.

(7) Regulations 22(6), (7) and (8) and regulation 24(9) shall not apply in relation to visiting forces or any member of a visiting force working in or attached to any headquarters or organisation.

(8) In regulation 25(1) the requirement to notify the Executive of a suspected overexposure and the results of the consequent investigation and assessment shall not apply in relation to the exposure of—

- (a) a member of a visiting force; or
- (b) a member of a visiting force working in or attached to a headquarters or organisation.

Modification, revocation and saving

41.—(1) The enactments referred to in Schedule 9 shall be modified in accordance with the provisions of that Schedule.

- (2) Subject to paragraph (3), the following enactments are hereby revoked—
 - (a) the Ionising Radiations Regulations 1985⁽⁶⁾;
 - (b) the Ionising Radiations (Outside Workers) Regulations 1993⁽⁷⁾;
 - (c) Part VI of Schedule 2 to the Personal Protective Equipment at Work Regulations 1992⁽⁸⁾.

⁽⁶⁾ [S.I. 1985/1333](#).

⁽⁷⁾ [S.I. 1993/2379](#).

⁽⁸⁾ [S.I. 1992/2966](#).

(3) Regulation 26 (Special hazard assessment) of the Ionising Radiations Regulations 1985 (in this paragraph referred to as “the 1985 Regulations”) shall continue in force and, in respect of any employer subject to the said regulation 26, the following provisions shall also continue in force—

(a) paragraphs (1) to (3), (4)(b) and (c) and (5) of regulation 27 (Contingency plans) with the modification that—

(i) in paragraph (1), the reference to regulation 25(1) of the 1985 Regulations shall be treated as a reference to regulation 7(1) or (2) of these Regulations;

(ii) in paragraph (1)(b), the reference to regulation 8(1) of and Schedule 6 to the 1985 Regulations shall be treated as a reference to regulation 16 of these Regulations;

(iii) in paragraph (4)(b), the reference to regulation 13(2) of the 1985 Regulations shall be treated as a reference to regulation 21(2) of these Regulations;

(b) any other provisions of the 1985 Regulations in so far as is necessary to give effect to the provisions specified in this paragraph.

(4) Every register, certificate or record which was required to be kept in pursuance of any regulation revoked by paragraph (2) shall, notwithstanding that paragraph, be kept in the same manner and for the same period as if these Regulations had not been made, except that the Executive may approve the keeping of records at a place or in a form other than the place where, or the form in which, records were required to be kept under the regulation so revoked.