

DEREGULATION ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1: Health and safety at work: general duty of self-employed persons

15. This section makes amendments to section 3 of the Health and Safety at Work etc. Act 1974 (general duty of employers and self-employed to persons other than their employees).
16. *Subsection (2)* amends section 3(2) of the Health and Safety at Work etc. Act 1974 (which imposes a general duty with respect to health and safety on all self-employed persons). The purpose of this amendment is to limit the scope of the general duty under section 3(2) so that only self-employed persons who conduct an “undertaking of a prescribed description” have an obligation to conduct their undertaking in such a way as to ensure that, so far as is reasonably practicable, they themselves and other persons who may be affected thereby are not exposed to risks to their health and safety. “Prescribed” has a specific meaning within Part 1 of the Health and Safety at Work etc. Act 1974. It is defined by section 53(1) to mean “prescribed by regulations made by the Secretary of State”. *Subsection (2)* therefore enables the Secretary of State to make regulations for the purposes of bringing self-employed persons within the scope of section 3(2). The regulations will be subject to affirmative procedure (*subsection (5)*).
17. *Subsection (3)* inserts a new subsection (2A) into section 3. The new subsection sets out the ways in which undertakings may be described in regulations made under section 3(2) (as amended). Paragraph (a) covers descriptions based on the type of activities carried out by the undertaking or on other features of the undertaking, such as its involvement with a specific hazard. Paragraph (b) ensures that the regulations could include a general description covering any undertaking the conduct of which may expose others to risks to their health or safety.
18. The section is a deregulatory provision because it will exempt from section 3(2) of the Health and Safety at Work etc. Act 1974 those self-employed persons who do not conduct a prescribed undertaking.
19. Section 11(4)(b)(i) of the Health and Safety at Work etc. Act 1974 (functions of the Executive) prevents the Health and Safety Executive from submitting proposals to the Secretary of State for the making of regulations for railway safety purposes. *Subsection (4)* of this section removes the new regulation-making power in section 3(2) of the Health and Safety at Work etc. Act 1974 (as amended) from the scope of section 11(4)(b)(i). This will enable the Health and Safety Executive to recommend proposals to the Secretary of State for the making of regulations that prescribe undertakings for railway safety purposes.
20. Section 84(3) of the Health and Safety at Work etc. Act 1974 includes a power for Her Majesty by Order in Council to apply provisions of the Act outside Great Britain. In the event that such an Order in Council is in force when the section comes into force, *subsection (6)* of this section provides for the amendments made to sections 3 and 11

*These notes refer to the Deregulation Act 2015 (c.20)
which received Royal Assent on 26 March 2015*

of the Health and Safety at Work etc. Act 1974 to apply outside Great Britain for such purposes as may be specified in the Order.

21. This section forms part of the law of England and Wales and Scotland. It comes into force on the day on which the Act is passed so far as necessary for enabling regulations under section 3(2) to be made. It comes into force for remaining purposes on a day to be appointed by the Secretary of State in a commencement order.