

## STATUTORY INSTRUMENTS

# 1997 No. 135

## HEALTH AND SAFETY

### The Health and Safety (Young Persons) Regulations 1997

*Made* - - - - 23rd January 1997  
*Laid before Parliament* 30th January 1997  
*Coming into force* - - 3rd March 1997

The Secretary of State, in exercise of the powers conferred on him by sections 15(1), (2) and (3) (a) and 82(3)(a) of, and paragraphs 7, 8(1) and 14 of Schedule 3 to, the Health and Safety at Work etc. Act 1974<sup>(1)</sup> and of all other powers enabling him in that behalf, and for the purpose of giving effect with modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the said Act of 1974 after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, and having consulted the said Commission in accordance with section 50(2) of that Act, hereby makes the following Regulations:

PROSPECTIVE

#### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Health and Safety (Young Persons) Regulations 1997 and shall come into force on 3rd March 1997.

(2) In these Regulations “the Management Regulations” means the Management of Health and Safety at Work Regulations 1992<sup>(2)</sup>.

(3) Any reference in these Regulations to a numbered regulation is a reference to the regulation in the Management Regulations so numbered.

#### Commencement Information

II Reg. 1 in force at 3.3.1997, see [reg. 1\(1\)](#)

(1) 1974 c. 37; sections 15 and 50 were amended by the Employment Protection Act 1975 (c. 71), Schedule 15, paragraphs 6 and 16 respectively.  
(2) S.I. 1992/2051; amended by S.I. 1994/2865.

*Status: This version of this Instrument contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Health and Safety (Young Persons) Regulations 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

## Amendment of the Management Regulations

2.—(1) The Management Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (2) of regulation 1—

(a) for the definition of “the assessment” there shall be substituted the following definition:

““the assessment” means, in the case of an employer or self-employed person, the assessment made or changed by him in accordance with regulation 3”;

(b) after the definition of “the assessment” there shall be inserted the following definition:

““child” —

(a) as respects England and Wales, means a person who is not over compulsory school age, construed—

(i) before the coming into force of section 8 of the Education Act 1996<sup>(3)</sup> in accordance with paragraph 1 of Schedule 40 to that Act; and

(ii) in accordance with section 8 from its coming into force;

(b) as respects Scotland, means a person who is not over school age, construed in accordance with section 31 of the Education (Scotland) Act 1980<sup>(4)</sup>

(c) the definition of “maternity leave period” shall be revoked;

(d) after the definition of “fixed-term contract of employment” the word “and” shall be revoked; and

(e) there shall be added the following definition:

““young person” means any person who has not attained the age of eighteen”.

(3) There shall be substituted for regulation 2 the following regulation:

### “Disapplication of these Regulations

2.—(1) These Regulations shall not apply to or in relation to the master or crew of a sea-going ship or to the employer of such persons in respect of the normal ship-board activities of a ship’s crew under the direction of the master.

(2) Regulations 3(3A), (3B) and (3C), 8(2) and 13D shall not apply to occasional work or short-term work involving—

(a) domestic service in a private household; or

(b) work regarded as not being harmful, damaging or dangerous to young people in a family undertaking.”

(4) After paragraph (3) of regulation 3 there shall be inserted the following paragraphs:

“(3A) Subject to paragraph (3B), an employer shall not employ a young person unless he has, in relation to risks to the health and safety of young persons, made or reviewed an assessment in accordance with paragraphs (1) and (3C).

(3B) Where an employer is employing a young person when this paragraph comes into force he shall, in relation to risks to the health and safety of young persons, review the assessment forthwith.

(3C) In making or reviewing the assessment, an employer who employs or is to employ a young person shall take particular account of—

<sup>(3)</sup> 1996 c. 56.

<sup>(4)</sup> 1980 c. 44.

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- (a) the inexperience, lack of awareness of risks and immaturity of young persons;
  - (b) the fitting-out and layout of the workplace and the workstation;
  - (c) the nature, degree and duration of exposure to physical, biological and chemical agents;
  - (d) the form, range and use of work equipment and the way in which it is handled;
  - (e) the organisation of processes and activities;
  - (f) the extent of the health and safety training provided or to be provided to young persons; and
  - (g) risks from agents, processes and work listed in the Annex to Council Directive 94/33/EC<sup>(5)</sup> on the protection of young people at work.”
- (5) There shall be substituted for regulation 8 the following regulation:

**“Information for employees**

**8.**—(1) Every employer shall provide his employees with comprehensible and relevant information on—

- (a) the risks to their health and safety identified by the assessment;
- (b) the preventive and protective measures;
- (c) the procedures referred to in regulation 7(1)(a);
- (d) the identity of those persons nominated by him in accordance with regulation 7(1)(b); and
- (e) the risks notified to him in accordance with regulation 9(1)(c).

(2) Every employer shall, before employing a child, provide a parent of the child with comprehensible and relevant information on—

- (a) the risks to his health and safety identified by the assessment;
- (b) the preventive and protective measures; and
- (c) the risks notified to him in accordance with regulation 9(1)(c).

(3) The reference in paragraph (2) to a parent of the child includes—

- (a) in England and Wales, a person who has parental responsibility, within the meaning of section 3 of the Children Act 1989<sup>(6)</sup>, for him; and
- (b) in Scotland, a person who has parental rights, within the meaning of section 8 of the Law Reform (Parent and Child (Scotland)) Act 1986<sup>(7)</sup>, for him.”

(6) After regulation 13C there shall be inserted the following regulation:

**“Protection of young persons**

**13D.**—(1) Every employer shall ensure that young persons employed by him are protected at work from any risks to their health or safety which are a consequence of their lack of experience, of absence of awareness of existing or potential risks or the fact that young persons have not yet fully matured.

(2) Subject to paragraph (3), no employer shall employ a young person for work—

- (a) which is beyond his physical or psychological capacity;

<sup>(5)</sup> OJ No. L216, 20.8.94, p.12.

<sup>(6)</sup> 1989 c. 41.

<sup>(7)</sup> 1986 c. 9.

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- (b) involving harmful exposure to agents which are toxic or carcinogenic, cause heritable genetic damage or harm to the unborn child or which in any other way chronically affect human health;
- (c) involving harmful exposure to radiation;
- (d) involving the risk of accidents which it may reasonably be assumed cannot be recognised or avoided by young persons owing to their insufficient attention to safety or lack of experience or training; or
- (e) in which there is a risk to health from—
  - (i) extreme cold or heat;
  - (ii) noise; or
  - (iii) vibration,
 and in determining whether work will involve harm or risk for the purposes of this paragraph, regard shall be had to the results of the assessment.

(3) Nothing in paragraph (2) shall prevent the employment of a young person who is no longer a child for work—

- (a) where it is necessary for his training;
- (b) where the young person will be supervised by a competent person; and
- (c) where any risk will be reduced to the lowest level that is reasonably practicable.

(4) The provisions contained in this regulation are without prejudice to—

- (a) the provisions contained elsewhere in these Regulations; and
- (b) any prohibition or restriction, arising otherwise than by this regulation, on the employment of any person.”.

(7) For paragraph (2) of regulation 15 there shall be substituted the following paragraph—

“(2) Paragraph (1) shall not apply to any duty imposed by these Regulations on an employer—

- (a) to the extent that it relates to risk referred to in regulation 13A(1) to an employee; or
- (b) which is contained in regulation 13D.”

#### Commencement Information

**I2** Reg. 2 in force at 3.3.1997, see [reg. 1\(1\)](#)

#### Repeals and revocations

**3.—(1)** The enactments specified in column 2 of Part I of the Schedule shall be repealed to the extent specified in column 3 of that Part.

**(2)** The instruments specified in column 1 of Part II of the Schedule shall be revoked to the extent specified in column 3 of that Part.

#### Commencement Information

**I3** Reg. 3 in force at 3.3.1997, see [reg. 1\(1\)](#)

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Signed by authority of the Secretary of State.

23rd January 1997

*Paul Beresford*  
Parliamentary Under Secretary of State,  
Department of the Environment

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PROSPECTIVE

## THE SCHEDULE

Regulation 3

## REPEALS AND REVOCATIONS

## PART I

## REPEALS

**Commencement Information**

**I4** Sch. Pt. I in force at 3.3.1997, see [reg. 1\(1\)](#)

Chapter	Short title	Extent of repeal
<a href="#">1961 c. 34</a>	The Factories Act 1961	Sections 20 and 21
<a href="#">1963 c. 41</a>	The Offices, Shops and Railway Premises Act 1963	Section 18

## PART II

## REVOCATIONS

**Commencement Information**

**I5** Sch. Pt. II in force at 3.3.1997, see [reg. 1\(1\)](#)

Title	Reference	Extent of revocation
The Locomotives and Waggon (Used on Lines and Sidings) Regulations 1906	S.R. & O. <a href="#">1906/679</a>	Regulations 20(c) and 21
The Dangerous Machines (Training of Young Persons) Order 1954	<a href="#">S.I. 1954/921</a>	The whole order
The Offshore Installations (Operational Safety, Health and Welfare) Regulations 1976	<a href="#">S.I. 1976/1019</a>	Regulation 28

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

1. These Regulations, by regulation 2, amend the Management of Health and Safety at Work Regulations 1992 (“the Management Regulations”) so that they give effect in Great Britain to Articles 6 and 7 of Council Directive [94/33/EC](#) (OJ No. L216, 20.8.94, p.12), on the protection of young people at work, save as permitted by Article 2.2.
2. In particular, regulation 2 amends regulation 2 (disapplication), 3 (risk assessment) and 8 (information for employees) of the Management Regulations, and introduces into those Regulations a new regulation 13D, which imposes obligations on employers for the protection of young persons.
3. Regulation 2 also revokes the definition in regulation 1(2) of the Management Regulations of “maternity leave period”, which is otiose.
4. Regulation 3 repeals or revokes certain provisions relating to young persons.
5. A copy of the compliance cost assessment prepared in respect of these Regulations can be obtained from the Health and Safety Executive, Directorate of Science and Technology, Economic Adviser’s Unit, Rose Court, 2 Southwark Bridge, London SE1 9HS. A copy has been placed in the Library of each House of Parliament.

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**Changes and effects yet to be applied to :**

- Sch. Pt. I coming into force by [S.I. 1997/135 reg. 1\(1\)](#)
- Sch. Pt. II coming into force by [S.I. 1997/135 reg. 1\(1\)](#)
- Regulations revoked by [S.I. 1999/3242 reg. 29\(1\)](#)
- reg. 1 coming into force by [S.I. 1997/135 reg. 1\(1\)](#)
- reg. 2 coming into force by [S.I. 1997/135 reg. 1\(1\)](#)
- reg. 3 coming into force by [S.I. 1997/135 reg. 1\(1\)](#)