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STATUTORY INSTRUMENTS

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**1998 No. 2306**

**The Provision and Use of Work Equipment Regulations 1998**

**PART I**

**INTRODUCTION**

**Citation and commencement**

1. These Regulations may be cited as the Provision and Use of Work Equipment Regulations 1998 and shall come into force on 5th December 1998.

**Interpretation**

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

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

“employer” except in regulation 3(2) and (3) includes a person to whom the requirements imposed by these Regulations apply by virtue of regulation 3(3)(a) and (b);

“essential requirements” means requirements described in regulation 10(1);

“the Executive” means the Health and Safety Executive;

“inspection” in relation to an inspection under paragraph (1) or (2) of regulation 6—

(a) means such visual or more rigorous inspection by a competent person as is appropriate for the purpose described in the paragraph;

(b) where it is appropriate to carry out testing for the purpose, includes testing the nature and extent of which are appropriate for the purpose;

“power press” means a press or press brake for the working of metal by means of tools, or for die proving, which is power driven and which embodies a flywheel and clutch;

“thorough examination” in relation to a thorough examination under paragraph (1), (2), (3) or (4) of regulation 32—

(a) means a thorough examination by a competent person;

(b) includes testing the nature and extent of which are appropriate for the purpose described in the paragraph;

“use” in relation to work equipment means any activity involving work equipment and includes starting, stopping, programming, setting, transporting, repairing, modifying, maintaining, servicing and cleaning;

“work equipment” means any machinery, appliance, apparatus, tool or installation for use at work (whether exclusively or not);

and related expressions shall be construed accordingly.

(2) Any reference in regulations 32 to 34 or Schedule 3 to a guard or protection device is a reference to a guard or protection device provided for the tools of a power press.

(3) Any reference in regulation 32 or 33 to a guard or protection device being on a power press shall, in the case of a guard or protection device designed to operate while adjacent to a power press, be construed as a reference to its being adjacent to it.

(4) Any reference in these Regulations to—

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

### **Application**

3.—(1) These Regulations shall apply—

- (a) in Great Britain; and
- (b) outside Great Britain as sections 1 to 59 and 80 to 82 of the 1974 Act apply by virtue of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 1995(1) (“the 1995 Order”).

(2) The requirements imposed by these Regulations on an employer in respect of work equipment shall apply to such equipment provided for use or used by an employee of his at work.

(3) The requirements imposed by these Regulations on an employer shall also apply—

- (a) to a self-employed person, in respect of work equipment he uses at work;
- (b) subject to paragraph (5), to a person who has control to any extent of—
  - (i) work equipment;
  - (ii) a person at work who uses or supervises or manages the use of work equipment; or
  - (iii) the way in which work equipment is used at work,and to the extent of his control.

(4) Any reference in paragraph (3)(b) to a person having control is a reference to a person having control in connection with the carrying on by him of a trade, business or other undertaking (whether for profit or not).

(5) The requirements imposed by these Regulations shall not apply to a person in respect of work equipment supplied by him by way of sale, agreement for sale or hire-purchase agreement.

(6) Subject to paragraphs (7) to (10), these Regulations shall not impose any obligation in relation to a ship’s work equipment (whether that equipment is used on or off the ship).

(7) Where merchant shipping requirements are applicable to a ship’s work equipment, paragraph (6) shall relieve the shore employer of his obligations under these Regulations in respect of that equipment only where he has taken all reasonable steps to satisfy himself that the merchant shipping requirements are being complied with in respect of that equipment.

(8) In a case where the merchant shipping requirements are not applicable to the ship’s work equipment by reason only that for the time being there is no master, crew or watchman on the ship, those requirements shall nevertheless be treated for the purpose of paragraph (7) as if they were applicable.

(9) Where the ship’s work equipment is used in a specified operation paragraph (6) shall not apply to regulations 7 to 9, 11 to 13, 20 to 22 and 30 (each as applied by regulation 3).

(10) Paragraph (6) does not apply to a ship's work equipment provided for use or used in an activity (whether carried on in or outside Great Britain) specified in the 1995 Order save that it does apply to—

- (a) the loading, unloading, fuelling or provisioning of the ship; or
- (b) the construction, reconstruction, finishing, refitting, repair, maintenance, cleaning or breaking up of the ship.

(11) In this regulation—

“master” has the meaning assigned to it by section 313(1) of the Merchant Shipping Act 1995<sup>(2)</sup>;

“merchant shipping requirements” means the requirements of regulations 3 and 4 of the Merchant Shipping (Guarding of Machinery and Safety of Electrical Equipment) Regulations 1988<sup>(3)</sup> and regulations 5 to 10 of the Merchant Shipping (Hatches and Lifting Plant) Regulations 1988<sup>(4)</sup>;

“ship” has the meaning assigned to it by section 313(1) of the Merchant Shipping Act 1995 save that it does not include an offshore installation;

“shore employer” means an employer of persons (other than the master and crew of any ship) who are engaged in a specified operation;

“specified operation” means an operation in which the ship's work equipment is used—

- (a) by persons other than the master and crew; or
- (b) where persons other than the master and crew are liable to be exposed to a risk to their health or safety from its use.

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<sup>(2)</sup> 1995 c. 21.

<sup>(3)</sup> S.I. 1988/1636, amended by S.I. 1988/2274.

<sup>(4)</sup> S.I. 1988/1639, amended by S.I. 1988/2274.