

1999 No. 2597

HEALTH AND SAFETY

**The Health and Safety (Fees) (Amendment)
Regulations 1999**

Made - - - - *15th September 1999*

Laid before Parliament *16th September 1999*

Coming into force *7th October 1999*

The Secretary of State, being the designated(a) Minister for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the prevention and limitation of the effects of accidents involving dangerous substances, in exercise of the powers conferred on him by the said section 2 and by sections 43(2), (4), (5) and (6) and 82(3)(a) of the Health and Safety at Work etc. Act 1974(c) (“the 1974 Act”) 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 1974 Act and having consulted the Commission in respect of those modifications in accordance with section 50(2) of the 1974 Act, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Health and Safety (Fees) (Amendment) Regulations 1999 and shall come into force on 7th October 1999.

Amendment of the Health and Safety (Fees) Regulations 1999

2. The Health and Safety (Fees) Regulations 1999(d) shall be amended as follows—
- (a) the regulations set out in Schedule 1 to these Regulations shall be inserted after regulation 18; and
 - (b) the Schedules set out in Schedule 2 to these Regulations shall be inserted after Schedule 15.

Amendment of the Control of Major Accident Hazards Regulations 1999

3. The Control of Major Accident Hazards Regulations 1999(e) shall be amended in accordance with Schedule 3 to these Regulations.

Signed by authority of the Secretary of State

Michael Meacher
Minister of State,
Department of the Environment,
Transport and the Regions

15th September 1999

(a) S.I. 1998/1750.
(b) 1972 c.68.
(c) 1974 c.37; section 43 was amended by the Employment Protection Act 1975 (c.71), Schedule 15, paragraph 12.
(d) S.I. 1999/645.
(e) S.I. 1999/743.

REGULATIONS TO BE INSERTED IN THE HEALTH AND SAFETY (FEES) REGULATIONS 1999**“Fees payable in respect of offshore installations**

18A.—(1) A fee shall be payable to the Executive by the person referred to in column 2 of Schedule 16 for the performance by the Executive of such functions conferred on the Executive as are specified in column 1 of that Schedule.

(2) A fee shall be payable to the Executive by an operator or owner who has prepared a safety case pursuant to the 1992 Regulations for the performance by or on behalf of the Executive, or by an inspector appointed by it, of any function conferred on the Executive or the inspector by the 1974 Act which relates to the enforcement of any of the relevant statutory provisions against—

- (a) that operator or owner in relation to the installation to which the safety case relates;
- (b) a contractor in relation to any work carried out by him on or in connection with that installation.

(3) In this regulation, regulation 18D and Schedule 16, “the 1992 Regulations” means the Offshore Installations (Safety Case) Regulations 1992(a), and “installation”, “safety case”, “operator” and “owner” have the same meanings as in those Regulations.

Fees payable in respect of railway safety functions

18B.—(1) A fee shall be payable to the Executive by the person referred to in column 2 of Schedule 17 for the performance by the Executive of such functions conferred on the Executive as are specified in column 1 of that Schedule.

(2) A fee shall be payable to the Executive by a railway operator who has prepared a safety case which has been accepted by the Executive pursuant to the 1994 Regulations for the performance by or on behalf of the Executive, or by an inspector appointed by it, of any function conferred on the Executive or the inspector by the 1974 Act which relates to the enforcement of any of the relevant statutory provisions against—

- (a) that railway operator in relation to the railway infrastructure, station or train operation to which that safety case relates;
- (b) a contractor in relation to work carried out by him on or in connection with that railway infrastructure or station or in connection with that train operation.

(3) This regulation shall not apply to a function performed in relation to the tunnel system within the meaning of section 1(7) of the Channel Tunnel Act 1987(b).

(4) This regulation shall not apply to a function performed in relation to a railway if on no part of that railway there is a line speed exceeding 25 miles per hour and for the purposes of this paragraph “line speed” means the highest of the permitted speeds on the railway concerned and “permitted speed” means the maximum speed permitted on the part of the railway concerned.

(5) In this regulation, regulation 18D and Schedule 17 the “1994 Regulations” means the Railways (Safety Case) Regulations 1994(c), the “Approval Regulations” means the Railways and Other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994(d) and “railway”, “railway infrastructure”, “railway operator”, “safety case”, “station” and “train” have the same meanings as in the 1994 Regulations.

Fees payable in respect of gas safety functions

18C.—(1) A fee shall be payable to the Executive by the person referred to in column 2 of Schedule 18 for the performance by the Executive of such functions conferred on the Executive as are specified in column 1 of that Schedule.

(2) A fee shall be payable to the Executive by a person conveying gas who has prepared a safety case pursuant to the 1996 Regulations or by a network emergency co-ordinator for the performance by or on behalf of the Executive, or by an inspector appointed by it, of any function conferred on the Executive or the inspector by the 1974 Act which relates to the enforcement of any of the relevant statutory provisions against—

(a) S.I. 1992/2885, amended by S.I. 1995/738, 1995/743, 1997/2776.

(b) 1987 c.53.

(c) S.I. 1994/237, amended by S.I. 1996/1592.

(d) S.I. 1994/157; as amended by S.I. 1997/553. The Regulations are relevant statutory provisions within the meaning of section 53 of the Health and Safety at Work etc. Act 1974 (c.37) by virtue of section 117(1) and (4) of the Railways Act 1993 (c.43).

- (a) that person in relation to the network to which the safety case relates; and
- (b) a contractor in relation to work carried out by him on or in connection with that network,

insofar as such enforcement is for the purpose of protecting persons from risks arising from the manner in which gas is conveyed or used.

(3) In this regulation, regulation 18D and Schedule 18 “the 1996 Regulations” means the Gas Safety (Management) Regulations 1996^(a), and “network”, “network emergency co-ordinator” and “safety case” have the same meanings as in the 1996 Regulations.

Provisions supplementary to regulations 18A to 18C

18D.—(1) The fees referred to in regulations 18A to 18C above shall—

- (a) not exceed the sum of the costs reasonably incurred by the Executive for the performance of the function referred to in the respective regulation; and
- (b) be payable within 30 days from the date of the invoice that the Executive has sent or given to the person who is required to pay the fees, such invoice to include a statement of the work done and the costs incurred including the period to which the statement relates.

(2) Any fees payable under regulations 18A to 18C shall be recoverable only as a civil debt.

(3) Any fees payable under regulations 18A to 18C shall not include any costs connected with any—

- (a) in England and Wales, criminal investigation or prosecution incurred (in either case) from the date any summons is obtained from a Magistrates’ Court;
- (b) in Scotland, criminal investigation or prosecution incurred (in either case) after such a time as—
 - (i) the inspector undertaking the investigation refers the case to the Procurator Fiscal; or
 - (ii) the Procurator Fiscal intervenes in the investigation,

whichever is the sooner; or

- (c) appeal pursuant to section 24 of the 1974 Act (appeal against improvement or prohibition notice) and, in England and Wales, regulation 8(4)(b) of, and Schedule 4 to, the Employment Tribunals (Constitution and Rules of Procedure) Regulations 1993^(b) and, in Scotland, regulation 8(4)(b) of, and Schedule 4 to, the Employment Tribunals (Constitution and Rules of Procedure) (Scotland) Regulations 1993^(c).

(4) For the purposes of regulation 18A and paragraphs (3)(a) and (b) an installation shall be treated as being in England and Wales if it is in the English area within the meaning of article 1 of the Civil Jurisdiction (Offshore Activities) Order 1987^(d) and in Scotland if it is in the Scottish area within the meaning of that article.

(5) Any reference in regulations 18A to 18C to a person who has prepared a safety case includes a reference to a person who is required to prepare a safety case, and in that connection as if—

- (a) any reference in those regulations to the installation, railway infrastructure, station, train operation or network to which the safety case relates were a reference to the installation, railway infrastructure, station, train operation or network to which the safety case would have related if it had been prepared in accordance with such requirement; and
- (b) the reference in regulation 18B(2) to a safety case which has been accepted by the Executive were a reference to a safety case which is required to be accepted by the Executive.

(6) Any reference in regulations 18A and 18B to a person who has prepared a safety case includes a reference to a person who is treated as having prepared a safety case by virtue of (in the case of regulation 18A) regulation 2(9) of the 1992 Regulations or (in the case of regulation 18B) regulation 2(7) of the 1994 Regulations.

^(a) S.I. 1996/551.

^(b) S.I. 1993/2687, as amended by S.I. 1994/538 and 1996/1758. The title of these Regulations, formerly the “Industrial Tribunals (Constitution and Rules of Procedure) Regulations 1993” was amended by operation of section 1 of the Employment Rights (Dispute Resolution) Act 1998 c.8.

^(c) S.I. 1993/2688, as amended by S.I. 1994/538 and 1996/1758. The title of these Regulations, formerly the “Industrial Tribunals (Constitution and Rules of Procedure) (Scotland) Regulations 1993” was amended by operation of section 1 of the Employment Rights (Dispute Resolution) Act 1998 c.8.

^(d) S.I. 1987/2197.

(7) Any reference in regulations 18A to 18C to work carried out by a contractor is a reference to work carried out by the contractor or his employees for the benefit of the person by whom the fees are payable under that regulation, whether pursuant to an agreement or an arrangement he has made with that person or with another person.

(8) Any reference in regulations 18A to 18C to a function conferred on an inspector by the 1974 Act which relates to enforcement against a person of any of the relevant statutory provisions includes a reference to any function conferred on an inspector by that Act which is exercised for the purpose of carrying into effect those provisions in relation to that person.”.

SCHEDULE 2

Regulation 2(b)

SCHEDULES TO BE INSERTED IN THE HEALTH AND SAFETY (FEES) REGULATIONS 1999

“SCHEDULE 16

Regulation 18A

FEES PAYABLE IN RESPECT OF OFFSHORE INSTALLATIONS

1	2
<i>Function</i>	<i>Person by whom fee is payable</i>
Assessing a safety case (sent to the Executive pursuant to regulation 4(1) of the 1992 Regulations) for the purpose of deciding whether to raise matters relating to health and safety and raising such matters.	The operator who sent the safety case to the Executive pursuant to that provision.
Assessing a safety case or a revision to a safety case (sent to the Executive pursuant to any other provision of the 1992 Regulations) for the purpose of deciding whether to accept that safety case or revision and accepting any such safety case or revision.	The operator or owner who sent the safety case or revision to the Executive pursuant to that provision.
Providing advice with respect to the preparation of a safety case or revision to a safety case which is proposed to be sent to the Executive pursuant to any provision of the 1992 Regulations.	The operator or owner who has requested that advice.
Assessing whether to grant an exemption pursuant to regulation 17 of the 1992 Regulations and granting any such exemption.	The operator or owner who has requested the exemption.

SCHEDULE 17

Regulation 18B

FEES PAYABLE IN RESPECT OF RAILWAY SAFETY FUNCTIONS

1	2
<i>Function</i>	<i>Person by whom fee is payable</i>
Assessing a safety case or a revision of a safety case (sent to the Executive pursuant to any provision of the 1994 Regulations) for the purpose of deciding whether to accept that safety case or revision, and accepting any such safety case or revision.	The railway operator who has prepared that safety case pursuant to that provision.
Assessing whether to grant an exemption pursuant to regulation 11 of the 1994 Regulations and granting any such exemption.	The railway operator who has requested the exemption.

1 <i>Function</i>	2 <i>Person by whom fee is payable</i>
Providing advice with respect to the preparation of a safety case or a revision of a safety case proposed to be sent to the Executive pursuant to any provision of the 1994 Regulations.	The railway operator who has requested that advice.
Assessing whether to grant an approval pursuant to any provision of the Approval Regulations and granting any such approval.	The operator or manufacturer (within the meaning of the Approval Regulations) who has made the application for the approval, or on whose behalf the application has been made.
Providing advice with respect to a proposed application for the grant of an approval pursuant to the Approval Regulations.	The operator or manufacturer (within the meaning of the Approval Regulations) who has requested that advice.
Assessing whether to make and making an order in relation to a level crossing pursuant to the Level Crossings Act 1983(a) and to an agreement made pursuant to section 13(1)(b) of the 1974 Act.	The operator within the meaning of the Level Crossings Act 1983.

SCHEDULE 18

Regulation 18C

FEES PAYABLE IN RESPECT OF GAS SAFETY FUNCTIONS

1 <i>Function</i>	2 <i>Person by whom fee is payable</i>
Assessing a safety case or a revision of a safety case (sent to the Executive pursuant to any provision of the 1996 Regulations) for the purpose of deciding whether to accept that safety case or revision, and accepting any such safety case or revision.	The person conveying gas or the network emergency co-ordinator who has prepared the safety case or revision pursuant to that provision.
Providing advice with respect to the preparation of a safety case or a revision to a safety case proposed to be sent to the Executive pursuant to any provision of the 1996 Regulations.	The person conveying gas or the network emergency co-ordinator who has requested that advice.
Assessing whether to grant an exemption pursuant to regulation 11 of the 1996 Regulations.	The person who has requested the exemption.”.

SCHEDULE 3

Regulation 3

AMENDMENT TO THE CONTROL OF MAJOR ACCIDENT HAZARDS REGULATIONS 1999

Regulation 22 of the Control of Major Accident Hazards Regulations 1999(b) shall be amended by substituting the following paragraph for sub-paragraph (b) of paragraph (6)—

“in Scotland, criminal investigation or prosecution incurred (in either case) after such time as—

- (i) the inspector or authorised person undertaking the investigation refers the case to the Procurator Fiscal; or
- (ii) the Procurator Fiscal intervenes in the investigation,

whichever is the sooner.”.

(a) 1983 c.16; the Act was amended by the Level Crossings Regulations 1997 (S.I. 1997/487).

(b) S.I. 1999/743.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health and Safety (Fees) Regulations 1999 (S.I. 1999/645) so as to insert provisions (regulation 2) which fix or determine the fees payable by specified persons in the offshore, rail and gas industries for the performance by the Executive of the functions specified in those provisions.

The Regulations also amend regulation 22 of the Control of Major Accident Hazards Regulations 1999 (S.I. 1999/743) by replacing paragraph (6)(b), which applies to Scotland, with a paragraph providing that no charge may be made for an investigation after the case has been referred to the Procurator Fiscal or the Procurator Fiscal intervenes in the investigation, whichever is the sooner (regulation 3).

A copy of the regulatory impact assessment prepared in respect of these Regulations can be obtained from the Health and Safety Executive, 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.

£2.00

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