

2003 No. 2457

**HEALTH AND SAFETY
FIRE PRECAUTIONS**

**The Management of Health and Safety at Work and Fire
Precautions (Workplace) (Amendment) Regulations 2003**

Made - - - - - *24th September 2003*

Laid before Parliament *1st October 2003*

Coming into force - - - *27th October 2003*

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to employers' obligations in respect of the health and safety of workers and in relation to measures relating to the minimum health and safety requirements for the workplace that relate to fire safety, in exercise of the powers conferred on him by the said section 2(c) and by sections 15(1) and (2) and 47(2) of the Health and Safety at Work etc Act 1974(d) ("the 1974 Act") and of all other powers enabling him in that behalf and for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the 1974 Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of the 1974 Act, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Management of Health and Safety at Work and Fire Precautions (Workplace) (Amendment) Regulations 2003 and shall come into force on 27th October 2003.

Amendments to Management of Health and Safety at Work Regulations 1999

2. The Management of Health and Safety at Work Regulations 1999(e) shall be amended in accordance with regulations 3 to 6 of these Regulations and any reference in those provisions to any specified provision shall, unless the context requires otherwise, be taken to be a reference to the provision so specified of the Management of Health and Safety at Work Regulations 1999.

(a) S.I. 1992/1711 and S.I. 1999/2027.

(b) 1972 c. 68.

(c) As regards Scotland, see also section 57(1) of the Scotland Act 1998 (c. 46), which provides that, despite the transfer to the Scottish Ministers by virtue of that Act of functions in relation to observing and implementing obligations under Community law, any function of a Minister of the Crown in relation to any matter shall continue to be exercisable by him as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972.

(d) 1974 c. 37; sections 15(1) and 50(3) were amended by the Employment Protection Act 1975 (1975 c. 71) Schedule 15, paragraphs 6 and 16(3) respectively.

(e) S.I. 1999/3242.

3. For regulation 2 there shall be substituted 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 ship, or to the employer of such persons, in respect of the normal ship-board activities of a ship’s crew which are carried out solely by the crew under the direction of the master.

(2) Regulations 3(4), (5), 10(2) and 19 shall not apply to occasional work or short-term work involving work regarded as not being harmful, damaging or dangerous to young people in a family undertaking.

(3) In this regulation—

“normal ship-board activities” include—

- (a) the construction, reconstruction or conversion of a ship outside, but not inside, Great Britain; and
- (b) the repair of a ship save repair when carried out in dry dock;

“ship” includes every description of vessel used in navigation, other than a ship belonging to Her Majesty which forms part of Her Majesty’s Navy.”

4. In regulation 3(3) the words “and where” to the end shall follow and not appear in subparagraph (b).

5. Regulation 19(4) shall be omitted.

6. For regulation 22 there shall be substituted the following regulation—

“Restriction of civil liability for breach of statutory duty

22. Breach of a duty imposed on an employer by these Regulations shall not confer a right of action in any civil proceedings insofar as that duty applies for the protection of persons not in his employment.”

Amendments to Fire Precautions (Workplace) Regulations 1997

7. The Fire Precautions (Workplace) Regulations 1997(a) shall be amended in accordance with regulations 8 to 13 of these Regulations and any reference in those provisions to any specified provision shall, unless the context requires otherwise, be taken to be a reference to the provision so specified of the Fire Precautions (Workplace) Regulations 1997.

8. In regulation 9(1) there shall be omitted the words “provisions of health and safety regulations or”.

9. In regulation 9(2)(a)(ii), for the words “premises to which” there shall be substituted the words “premises of a description specified in Part I of Schedule 1 to” and the word “apply” shall be omitted.

10. For paragraph (ii) of regulation 9(2)(b) there shall be substituted the following paragraph—

“(ii) have effect in relation to a workplace in Great Britain other than—

- (a) an excepted workplace, or
- (b) any workplace referred to in paragraphs (i) and (ii) of paragraph (2)(a), other than a building on the surface at a mine.”.

11. After regulation 9(2) there shall be inserted the following paragraph—

“(2A) Notwithstanding that the provisions of Part II of these Regulations are not provisions forming part of the relevant statutory provisions, the provisions of Part II shall, in so far as they apply to any workplace referred to in paragraphs (i) and (ii) of paragraph (2)(a) other than a building on the surface at a mine, be deemed to be health and safety regulations for the purposes of sections 16 to 24, 26, 28, 33 to 40, 42, 46 and 47 of the 1974 Act.”.

(a) S.I. 1997/1840, amended by S.I. 1999/1877, 1999/3242 and 2002/2776.

12. At the end of regulation 9 there shall be inserted the following regulation—

“Civil liability for breach of statutory duty

9A.—(1) Subject to paragraph (2), and notwithstanding section 86 of the Fires Prevention (Metropolis) Act 1774(a), breach of a duty imposed on an employer by the workplace fire precautions legislation shall, so far as it causes damage, confer a right of action in civil proceedings.

(2) Breach of a duty imposed on an employer by the workplace fire precautions legislation shall not confer a right of action in civil proceedings insofar as that duty applies for the protection of persons not in his employment”.

13. In regulation 17—

(a) in paragraph (2), the words “27A (civil and other liability)” shall be omitted;

(b) at the end of paragraph (5) there shall be inserted the following paragraph—

“(6) Insofar as Part II of these Regulations contains any provision which is made under the 1971 Act, section 27A(a) of the 1971 Act shall not apply in respect of any contravention of such provision.”.

Signed by authority of the Secretary of State for Work and Pensions.

24th September 2003

P. Hollis
Parliamentary Under Secretary of State,
Department for Work and Pensions

Signed by authority of the First Secretary of State.

24th September 2003

Nick Raynsford
Minister of State,
Office of the Deputy Prime Minister

(a) 14 Geo 3 c. 78.

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations amend the Management of Health and Safety at Work Regulations 1999 (“the 1999 Regulations”) and the Fire Precautions (Workplace) Regulations 1997 (“the 1997 Regulations”).
2. These Regulations make a small number of amendments rectifying minor defects in the 1999 Regulations. In addition, they replace regulation 22 of the 1999 Regulations (which provided that breach of a duty imposed by the Regulations could not confer a right of action in any civil proceedings), to the effect that employees may bring civil claims against their employers where they are in breach of duties imposed by the 1999 Regulations (but as respects claims by non-employees the exclusion of civil liability for breach of duties imposed by the 1999 Regulations remains). They also make amendments to the 1997 Regulations so as to achieve the same effect in relation to breaches of duties imposed by Part II of those Regulations and regulations 1 to 5, 7 to 12 and 13(2) and (3) of the 1999 Regulations in so far those regulations impose requirements concerning general fire precautions to be taken or observed by an employer (other than in “excepted workplaces”, as defined by those Regulations).
3. Regulation 3 of these Regulations replaces regulation 2 of the 1999 Regulations. Apart from changes to correct drafting errors and anomalies, the effect of the new regulation is to alter the disapplication of the 1999 Regulations with regard to activities on ships.
4. Regulations 8 to 11 of these Regulations amend regulation 9 of the 1997 Regulations. The amendments are for making the Health and Safety Executive the enforcing authority in respect of Part II of the 1997 Regulations in relation to a workplace which is or is in or on a ship in the course of construction or repair and a workplace, other than a building on the surface at a mine, which comprises premises of a description specified in Part I of Schedule 1 to the Fire Certificates (Special Premises) Regulations 1976. The amendments also take away the enforcement role fire authorities had in respect of such workplaces (other than a building on the surface at a mine) for the purposes of regulations 1 to 5, 7 to 12 and 13(2) and (3) of the 1999 Regulations; this role will now pass to the Health and Safety Executive.
5. 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.

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