



# Health and Safety at Work etc. Act 1974

## 1974 CHAPTER 37

### PART I

#### HEALTH, SAFETY AND WELFARE IN CONNECTION WITH WORK, AND CONTROL OF DANGEROUS SUBSTANCES AND CERTAIN EMISSIONS INTO THE ATMOSPHERE

##### *Financial provisions*

#### **43 Financial provisions.**

- (1) It shall be the duty of the Secretary of State to pay to [<sup>F1</sup>the Executive] such sums as are approved by the Treasury and as he considers appropriate for the purpose of enabling [<sup>F1</sup>the Executive] to perform its functions; <sup>F2</sup>.....
- (2) Regulations may provide for such fees as may be fixed by or determined under the regulations to be payable for or in connection with the performance by or on behalf of any authority to which this subsection applies of any function conferred on that authority by or under any of the relevant statutory provisions.
- (3) Subsection (2) above applies to the following authorities, namely <sup>F3</sup>. . . the Executive, the Secretary of State, . . . <sup>F4</sup>, every enforcing authority, and any other person on whom any function is conferred by or under any of the relevant statutory provisions.
- (4) Regulations under this section may specify the person by whom any fee payable under the regulations is to be paid; but no such fee shall be made payable by a person in any of the following capacities, namely an employee, a person seeking employment, a person training for employment, and a person seeking training for employment.
- (5) Without prejudice to section 82(3), regulations under this section may fix or provide for the determination of different fees in relation to different functions, or in relation to the same function in different circumstances.
- [<sup>F5</sup>(6) The power to make regulations under this section shall be exercisable by the Secretary of State <sup>F6</sup>. . .]

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- (8) In subsection (4) above the references to a person training for employment and a person seeking training for employment shall include respectively a person attending an industrial rehabilitation course provided by virtue of the <sup>M1</sup>Employment and Training Act 1973 and a person seeking to attend such a course.
- (9) For the purposes of this section the performance by an inspector of his functions shall be treated as the performance by the enforcing authority which appointed him of functions conferred on that authority by or under any of the relevant statutory provisions.

#### Textual Amendments

- F1** Words in s. 43(1) substituted (1.4.2008) by [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 14\(a\)\(i\)](#) (with art. 21, Sch. 2)
- F2** Words in s. 43(1) omitted (1.4.2008) by virtue of [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 14\(a\)\(ii\)](#) (with art. 21, Sch. 2)
- F3** Words in s. 43(3) omitted (1.4.2008) by virtue of [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 14\(b\)](#) (with art. 21, Sch. 2)
- F4** Words repealed by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 18](#)
- F5** S. 43(6) substituted for s. 43(6)(7) by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 15 para. 12](#)
- F6** Words in s. 43(6) repealed (27.3.2002) by [S.I. 2002/794](#), art. 5(2), [Sch.](#) (with art. 6)

#### Modifications etc. (not altering text)

- C20** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), [arts. 2–10](#)
- C21** Ss. 1–59, 80–82 applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\)](#), 5(1)(2), 6(1), 7(1), 8(1), 10 (with art. 11) (as amended by [S.I. 2009/1750](#), [art. 2\(2\)\(4\)](#))
- C22** Ss. 1–59, 80–82 applied (temp.) (5.8.2009) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\)](#), [arts. 8A, 8B](#) (as inserted by [S.I. 2009/1750](#), [art. 2\(3\)](#))
- C23** Ss. 1–59 applied by [S.I. 2001/2127](#) art. 8A 8B (as inserted (E.W.S.) (6.4.2011) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) \(Variation\) Order 2011 \(S.I. 2011/745\)](#), [arts. 1\(1\), 3\(2\)](#))

#### Marginal Citations

- M1** 1973 c. 50.

### [<sup>F7</sup> 43A Railway safety levy **E+W+S**

- (1) The Secretary of State may make regulations requiring persons who provide railway services to pay railway safety levy.
- (2) Railway safety levy shall be applied only for the purpose of meeting expenses incurred—
- [<sup>F8</sup>(a) in respect of activities undertaken by <sup>F8</sup>the Office of Rail Regulation under or by virtue of this Act or Schedule 3 to the Railways Act 2005; or
- (b) in respect of activities in relation to a transport system falling within paragraph 1(3) of that Schedule that are undertaken by that Office under or by virtue of any other enactment.]
- (3) The railway safety levy shall not be used to meet—
- (a) an expense in respect of which a fee is payable under regulations made under section 43, or

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- (b) an expense in respect of a matter specified by the regulations for the purpose of this paragraph.
- (4) Where an expense is incurred partly in respect of activity within subsection (2)(a) or (b) and partly in respect of other activity, the railway safety levy may be used to meet a part of that expense which is reasonably referable to activity within subsection (2)(a) or (b).
- (5) Regulations under subsection (1) may, in particular, determine or enable the [<sup>F9</sup>Office of Rail Regulation] to determine—
- (a) the total amount of the railway safety levy to be imposed in respect of a specified period;
  - (b) the persons by whom the levy is to be paid;
  - (c) the criteria for assessing the proportion of the levy to be paid by a particular person (which may, in particular, refer to the size of a person's income or provide for an amount to be reduced or waived in specified circumstances);
  - (d) the periods in respect of which the levy is to be paid;
  - (e) the manner in which the levy is to be paid;
  - (f) the person to whom the levy is to be paid;
  - (g) when the levy is to be paid.
- (6) Regulations under subsection (1) may, in particular, enable the [<sup>F9</sup>Office of Rail Regulation]—
- (a) to require a person who provides railway services to supply information for the purposes of the consideration of a matter specified in subsection (5);
  - (b) where information requested is not supplied, to make assumptions;
  - (c) to revise a determination of a matter specified in subsection (5)(whether before, during or after the period to which it relates);
  - (d) to make refunds.
- (7) Regulations by virtue of subsection (6)(a) may, in particular, make provision—
- (a) about the manner and timing of the supply of information;
  - (b) about certification of the accuracy of information supplied;
  - (c) creating a criminal offence in connection with the supply of inaccurate or misleading information (but not an offence punishable with imprisonment).
- (8) Regulations under subsection (1) may enable payment to be enforced by civil proceeding.
- (9) For the purposes of this section a person provides railway services if he manages or controls, or participates in managing or controlling, a transport system [<sup>F10</sup>falling within paragraph 1(3) of Schedule 3 to the Railways Act 2005] .]

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#### **Extent Information**

- E2** This version of this provision extends to England and Wales and Scotland only; a separate version has been created for Northern Ireland only

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#### **Textual Amendments**

- F7** S. 43A inserted (10.9.2003) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), **ss. 105(1)**, 120
- F8** S. 43A(2)(a)(b) substituted (E.W.S.) (7.2.2006) by [Railways Act 2005 \(c. 14\)](#), **ss. 2, 60**, **Sch. 3 para. 12(2)**; [S.I. 2006/266](#), **art. 2(1)(a)(b)**

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- F9** Words in s. 43A(5)(6) substituted (E.W.S.) (7.2.2006) by [Railways Act 2005 \(c. 14\), ss. 2, 60, Sch. 3 para. 12\(3\)](#); S.I. 2006/266, [art. 2\(1\)\(a\)\(b\)](#)
- F10** Words in s. 43A(9) substituted (E.W.S.) (7.2.2006) by [Railways Act 2005 \(c. 14\), ss. 2, 60, Sch. 3 para. 12\(4\)](#); S.I. 2006/266, [art. 2\(1\)\(a\)\(b\)](#)

**Modifications etc. (not altering text)**

- C23** Ss. 1-59 applied by S.I. 2001/2127 art. 8A 8B (as inserted (E.W.S.) (6.4.2011) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) \(Variation\) Order 2011 \(S.I. 2011/745\)](#), arts. 1(1), [3\(2\)](#))
- C24** Ss. 1-59, 80-82 applied by S.I. 2001/2127, [arts. 4\(1\), 5\(1\)\(2\), 6\(1\), 7\(1\), 8\(1\), 10](#) (with [art. 11](#)) (as amended (5.8.2009) by S.I. 2009/1750, [art. 2\(2\)\(4\)](#))
- C25** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\)](#), arts. 8A, 8B (as inserted by S.I. 2009/1750, [art. 2\(3\)](#))

**43A Railway safety levy** **N.I.**

- (1) The Secretary of State may make regulations requiring persons who provide railway services to pay railway safety levy.
- (2) Railway safety levy shall be applied only for the purpose of meeting expenses incurred—
  - (a) in respect of activity undertaken by the Executive in reliance on section 117 of the Railways Act 1993 (safety of railways, &c.), or
  - (b) in respect of activity undertaken by the Executive, under or by virtue of any other enactment, in relation to a transport system to which that section applies.
- (3) The railway safety levy shall not be used to meet—
  - (a) an expense in respect of which a fee is payable under regulations made under section 43, or
  - (b) an expense in respect of a matter specified by the regulations for the purpose of this paragraph.
- (4) Where an expense is incurred partly in respect of activity within subsection (2)(a) or (b) and partly in respect of other activity, the railway safety levy may be used to meet a part of that expense which is reasonably referable to activity within subsection (2) (a) or (b).
- (5) Regulations under subsection (1) may, in particular, determine or enable the Commission or the Executive to determine—
  - (a) the total amount of the railway safety levy to be imposed in respect of a specified period;
  - (b) the persons by whom the levy is to be paid;
  - (c) the criteria for assessing the proportion of the levy to be paid by a particular person (which may, in particular, refer to the size of a person's income or provide for an amount to be reduced or waived in specified circumstances);
  - (d) the periods in respect of which the levy is to be paid;
  - (e) the manner in which the levy is to be paid;
  - (f) the person to whom the levy is to be paid;
  - (g) when the levy is to be paid.

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- (6) Regulations under subsection (1) may, in particular, enable the Commission or the Executive—
- (a) to require a person who provides railway services to supply information for the purposes of the consideration of a matter specified in subsection (5);
  - (b) where information requested is not supplied, to make assumptions;
  - (c) to revise a determination of a matter specified in subsection (5) (whether before, during or after the period to which it relates);
  - (d) to make refunds.
- (7) Regulations by virtue of subsection (6)(a) may, in particular, make provision—
- (a) about the manner and timing of the supply of information;
  - (b) about certification of the accuracy of information supplied;
  - (c) creating a criminal offence in connection with the supply of inaccurate or misleading information (but not an offence punishable with imprisonment).
- (8) Regulations under subsection (1) may enable payment to be enforced by civil proceeding.
- (9) For the purposes of this section a person provides railway services if he manages or controls, or participates in managing or controlling, a transport system to which section 117 of the Railways Act 1993 applies.

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**Extent Information**

- E3** This version of this provision extends to Northern Ireland only; a separate version has been created for England and Wales and Scotland only

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**Modifications etc. (not altering text)**

- C25** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by The Health and Safety at [Work etc. Act 1974](#) ([Application outside Great Britain](#)) Order 2001 (S.I. 2001/2127), arts. 8A, 8B (as inserted by S.I. 2009/1750, [art. 2\(3\)](#))
- C26** Ss. 1-59, 80-82 applied by S.I. 2001/2127, [arts. 4\(1\), 5\(1\)\(2\), 6\(1\), 7\(1\), 8\(1\), 10](#) (with [art. 11](#)) (as amended (5.8.2009) by S.I. 2009/1750, [art. 2\(2\)\(4\)](#))

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