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STATUTORY INSTRUMENTS

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**2017 No. 1075**

**The Ionising Radiations Regulations 2017**

**PART 7**

**DUTIES OF EMPLOYEES AND MISCELLANEOUS**

**Duties of employees**

**35.**—(1) An employee who is engaged in work with ionising radiation must not knowingly expose themselves or any other person to ionising radiation to an extent greater than is reasonably necessary for the purposes of their work, and must exercise reasonable care while carrying out such work.

(2) Every employee or outside worker for whom personal protective equipment is provided pursuant to regulation 9(2)(c) must—

- (a) make full and proper use of any such personal protective equipment;
- (b) immediately report to the employer who provided any such personal protective equipment any defect they discover in that equipment; and
- (c) take all reasonable steps to ensure that any such personal protective equipment is returned after use to the accommodation provided for it.

(3) It is the duty of every classified outside worker not to misuse the radiation passbook issued to that worker or falsify or attempt to falsify any of the information contained in it.

(4) Any employee to whom regulation 22(1) or regulation 13(2)(b) relates must comply with any reasonable requirement imposed on that person by that person's employer for the purposes of making the measurements and assessments required under regulation 22(1) and regulation 24(1).

(5) An employee who is subject to medical surveillance under regulation 25 must, when required by their employer and at the cost of the employer, present themselves during their working hours for such medical examination and tests as may be required for the purposes of regulation 25(2) and must provide the relevant doctor with such information concerning their health as the relevant doctor may reasonably require.

(6) Where an employee has reasonable cause to believe that—

- (a) they or some other person has received an overexposure;
- (b) an occurrence mentioned in paragraph (1) or (3) of regulation 31 has occurred; or
- (c) an incident mentioned in regulation 33(6) has occurred,

they must immediately notify their employer of that belief.

**Approval of dosimetry services**

**36.**—(1) The Executive (or such other person as may from time to time be specified in writing by the Executive) may, by a certificate in writing, approve (in accordance with such criteria as may from time to time be specified by the Executive) a suitable dosimetry service for such of the purposes of

these Regulations or of the Radiation (Emergency Preparedness and Public Information) Regulations 2001(1) as are specified in the certificate.

(2) A certificate made pursuant to paragraph (1) may be made subject to conditions and may be revoked in writing at any time.

(3) The Executive (or such other person as may from time to time be specified in writing by the Executive) may at such periods as it considers appropriate carry out a re-assessment of any approval granted pursuant to paragraph (1).

### **Defence on contravention**

**37.—**(1) In any proceedings against an employer for an offence under regulation 5(2) (notification), 6(3) (registration) or 7(2) (consent), it is a defence for that employer to prove that—

- (a) it neither knew nor had reasonable cause to believe that it had carried out or might be required to carry out work that required notification under regulation 5(2), registration under regulation 6(3) or consent under regulation 7(2) (as the case may be); and
- (b) in a case where it discovered that it had carried out or was carrying out such work, it had immediately notified, registered or applied for consent for such work (as the case may be) in accordance with those regulations.

(2) The defence in paragraph (1)—

- (a) in connection with an offence under regulation 6(3), does not apply in relation to the operation of a radiation generator; and
- (b) in connection with an offence under regulation 7(2), only applies in relation to a practice referred to in regulation 7(1)(g).

(3) In any proceedings against an employer for an offence under regulation 8, it is a defence for that employer to prove that—

- (a) it neither knew nor had reasonable cause to believe that it had commenced a new activity involving work with ionising radiation; and
- (b) in a case where it had discovered that it had commenced a new activity involving work with ionising radiation, it had as soon as practicable made an assessment as required by regulation 8.

(4) In any proceedings against an employer for an offence under regulation 28(2) it is a defence for that employer to prove that—

- (a) it had received and reasonably relied on a written undertaking from the supplier of the article concerned that the article complied with the requirements of that paragraph; and
- (b) it had complied with the requirements of paragraph (3) of that regulation.

(5) In any proceedings against an employer of an outside worker for a breach of a duty under these Regulations it is a defence for that employer to show that—

- (a) it had entered into a contract in writing with the employer who had designated an area as a controlled or supervised area and in which the outside worker was working or was to work for that employer to perform that duty on its behalf; and
- (b) the breach of duty was a result of the failure of the employer referred to in sub-paragraph (a) to fulfil that contract.

(6) In any proceedings against any employer who has designated a controlled or supervised area in which any outside worker is working or is to work for a breach of a duty under these Regulations it is a defence for that employer to show that—

(1) S.I. 2001/2975, amended by S.I. 2002/2099, S.I. 2002/2469, S.I. 2006/557, S.I. 2007/1573, S.I. 2013/235, S.I. 2013/1471, S.I. 2014/469 and S.I. 2015/1682.

- (a) it had entered into a contract in writing with the employer of an outside worker for that employer to perform that duty on its behalf; and
- (b) the breach of duty was a result of the failure of the employer referred to in sub-paragraph (a) to fulfil that contract.

(7) A person charged is not, without the permission of the court, entitled to rely on the defence referred to in paragraph (5) or (6) unless, within a period ending 7 clear days before the hearing, that person has served on the prosecutor a notice in writing of that person's intention to rely on the defence and the notice must be accompanied by a copy of the contract on which that person intends to rely and, if that contract is not in English, an accurate translation of that contract into English.

(8) Where a contravention of these Regulations by any person is due to the act or default of some other person, that other person will be guilty of the offence which would, but for any defence under this regulation available to the first-mentioned person, be constituted by the act or default.

(9) In this regulation, "appropriate authority" means—

- (a) in connection with the application of this regulation in relation to, or in relation to any activity carried out on, any nuclear premises, the ONR;
- (b) otherwise, the Executive.

### **Exemption certificates**

**38.**—(1) Subject to paragraph (2), the appropriate authority may, by a certificate in writing, exempt—

- (a) any person or class of persons;
- (b) any premises or class of premises; or
- (c) any equipment, apparatus or substance or class of equipment, apparatus or substance,

from any requirement or prohibition imposed by these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked by a certificate in writing at any time.

(2) The appropriate authority must not grant an exemption unless, having regard to the circumstances of the case and in particular to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactments which apply to the case,

it is satisfied that—

- (c) the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it; and
- (d) compliance with the fundamental radiation protection provisions underlying regulations 9(1) and (2)(a), 12, 13(1), 17(1) and (3), 20(1), 21(1), 22(1), 25(2) and 33(1) will be achieved.

(3) In this regulation, "appropriate authority" means—

- (a) in connection with the application of this regulation in relation to, or in relation to any activity carried out on, any nuclear premises, the ONR;
- (b) otherwise, the Executive.

### **Extension outside Great Britain**

**39.**—(1) Subject to paragraph (2), these Regulations apply to any work outside Great Britain to which 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 2013<sup>(2)</sup> as they apply to work within Great Britain.

(2) For the purposes of paragraph (1), in any case where it is not reasonably practicable for an employer to comply with the requirements of these Regulations in so far as they relate to functions being performed by a relevant doctor or by an approved dosimetry service, it is sufficient compliance with any such requirements if the employer makes arrangements affording an equivalent standard of protection for its employees and those arrangements are set out in local rules.

### **Modifications relating to the Ministry of Defence etc**

**40.**—(1) In this regulation, any reference to—

- (a) “visiting forces” is a reference to visiting forces within the meaning of any provision of Part 1 of the Visiting Forces Act 1952<sup>(3)</sup>; and
- (b) “headquarters or organisation” is a reference to a headquarters or organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964<sup>(4)</sup>.

(2) The Secretary of State for Defence may, in the interests of national security, by a certificate in writing exempt—

- (a) Her Majesty’s Forces;
- (b) visiting forces;
- (c) any member of a visiting force working in or attached to any headquarters or organisation; or
- (d) any person engaged in work with ionising radiation for, or on behalf of, the Secretary of State for Defence,

from all or any of the requirements or prohibitions imposed by these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by a certificate in writing, except that, where any such exemption is granted, suitable arrangements must be made for the assessment and recording of doses of ionising radiation received by persons to whom the exemption relates.

(3) Regulations 5, 6 and 7 do not apply in relation to work carried out by visiting forces or any headquarters or organisation on premises under the control of such visiting force, headquarters or organisation, as the case may be, or on premises under the control of the Secretary of State for Defence.

(4) With respect to any work with ionising radiation undertaken for, or on behalf of, the Secretary of State for Defence—

- (a) the requirements of regulations 5(2) and (3), 6(4)(a) and (b), and 7(3)(a) and (b) to notify particulars specified by the appropriate authority (as defined for the purposes of those regulations) only apply in relation to the particulars that may be so specified from the list set out in paragraph (9); and
- (b) any requirement to provide any of the particulars described in paragraphs (9)(d), (e), (f), (g), (h) (i) and (k) does not apply where—
  - (i) the Secretary of State for Defence decides that the provision of such particulars will be contrary to the interests of national security; or
  - (ii) suitable alternative arrangements have been agreed with the appropriate authority (as defined in paragraph (10)).

<sup>(2)</sup> [S.I. 2013/240](#).

<sup>(3)</sup> [1952 c. 67](#). The definition of “visiting forces” was amended by paragraph 14 of Schedule 15 to the Criminal Justice Act 1988 (c. 33).

<sup>(4)</sup> [1964 c. 5](#).

(5) Regulation 5(4) does not apply to an employer in relation to work with ionising radiation undertaken for or on behalf of the Secretary of State for Defence, visiting forces or any headquarters or organisation.

(6) Sub-paragraph (i) of regulation 22(3) does not apply in relation to a practice carried out—

- (a) by or on behalf of the Secretary of State for Defence;
- (b) by a visiting force; or
- (c) by any member of a visiting force in or attached to any headquarters or organisation.

(7) Regulations 23(6), (7) and (8) and regulation 25(8) do not apply in relation to visiting forces or any member of a visiting force working in or attached to any headquarters or organisation.

(8) In regulation 26(1) the requirement to notify the appropriate authority (as defined for the purposes of that regulation) of a suspected overexposure and the results of the consequent investigation and assessment does not apply in relation to the exposure of—

- (a) a member of a visiting force; or
- (b) a member of a visiting force working in or attached to a headquarters or organisation.

(9) The particulars referred to in paragraph (4) are—

- (a) the name, address, telephone number and email address of the employer;
- (b) the address of the premises where or from where the work activity is to be carried out and a telephone number or email address for such premises;
- (c) the nature of the business of the employer;
- (d) a description of the work with ionising radiation;
- (e) particulars of the source or sources of ionising radiation including the type of electrical equipment used or operated and the nature of any radioactive substance;
- (f) the quantities of any radioactive substance used in the work;
- (g) the identity of any person engaged in the work;
- (h) whether or not any source is to be used at premises other than the address given in sub-paragraph (b);
- (i) the location and description of any premises at which the work is carried out on each occasion that it is so carried out;
- (j) the date of notification, registration or application for consent to carry out the work activity and the date of commencement of the work activity;
- (k) the duration of any period over which the work is carried out and the date of termination of the work activity.

(10) In paragraph (4)(b)(ii), “appropriate authority” means—

- (a) in connection with the application of this regulation in relation to, or in relation to any activity carried out on, any nuclear premises, the ONR;
- (b) otherwise, the Executive.

### **Transitional provisions and savings**

**41.** Schedule 8, which makes transitional provisions and savings, has effect.

### **Modifications and revocation**

**42.—**(1) Schedule 9, which contains modifications to primary legislation and instruments, has effect.

- (2) The Ionising Radiations Regulations 1999<sup>(5)</sup> are revoked.

## **Review**

**43.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations; and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 1st January 2023.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015<sup>(6)</sup> requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the Directive is implemented in other member States.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

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<sup>(5)</sup> S.I. 1999/3232, amended by S.I. 2001/2626, S.I. 2001/2975, S.I. 2002/2099, S.I. 2008/960, S.I. 2010/675, S.I. 2011/1043, S.I. 2013/755, S.I. 2013/1471, S.I. 2014/469, S.I. 2014/3248 and S.I. 2016/1154.

<sup>(6)</sup> 2015 c. 26. Section 30(3) was amended by section 19 of the Enterprise Act 2016 (c. 12).