

Subsidiary Legislation made under ss. 58 and 81.

Management of Health and Safety at Work Regulations, 1996

LN. 1996/011

		<i>Commencement</i>	1.2.1996
Amending enactments	Relevant current provisions		Commencement date
LN. 2004/102	r. 23		28.10.2004
2010/132	r. 7A, Sch.		29.7.2010
Act. 2016-20	r. 21(2)		13.10.2016
LN. 2018/024	r. 2(3)		6.2.2018

Transposing:

Directive 89/391/EEC

Directive 91/383/EEC

Directive 2013/59/EURATOM

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Title and commencement.

1.(1) These Regulations may be cited as the Management of Health and Safety at Work Regulations, 1996 and, subject to subregulation (2) shall come into effect on the 1st day of February, 1996.

(2) Where on the effective date of these Regulations a person is an employer, or a self-employed person who, by virtue of the Act or these Regulations, is to be treated as an employer for the purposes of these Regulations, to whom these Regulations or any provision of them applies it shall be deemed sufficient compliance with these Regulations by that person if he shall have complied with them by the 1st day of May, 1996.

Interpretation.

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

“the assessment” means, in the case of an employer, the assessment made by him in accordance with regulation 7(1) and in the case of a self employed person, the assessment made by him in accordance with regulation 7(2);

“employment business” means a business (whether or not carried on with a view to profit and whether or not carried on in conjunction with any other business) which supplies persons who are employed in it to work for and under the control of other persons in any capacity;

“fixed-term contract of employment” means a contract of employment for a specific term which is fixed in advance or which can be ascertained in advance by reference to some relevant circumstance;

“representative” in relation to an employee means any persons elected, chosen or designated in accordance with any law or practice to represent employees in matters relating to the safety and health protection of such employees at work;

“the preventive and protective measures” means the measures which have been identified by the employer in consequence of the assessment as the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions.

(2) Nothing in these Regulations shall be construed as imposing on an employer a duty where an occurrence is due to unusual and unforeseeable circumstances beyond the employer’s control or to exceptional events, the consequences of which could not have been avoided

despite the exercise of due care and the words "so far as is reasonably practicable" shall be construed accordingly.

(3) For the purposes of these Regulations-

- (a) the word "work" shall include any instruction or training which a person undergoes as a trainee and the meaning of "at work" shall be construed accordingly; and
- (b) a trainee shall, while he is undergoing instruction or training in respect of work with ionising radiation, be treated as the employee of the person whose undertaking (whether for profit or not) is providing that instruction or training and that person shall be treated as the employer of that trainee except that the duties to the trainee imposed upon the person providing instruction or training shall only extend to matters under the control of that person.

Employers' duty to ensure health, safety and welfare.

3.(1) It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.

(2) Without prejudice to the generality of an employer's duty under the preceding subregulation, the matters to which that duty extends include in particular-

- (a) the provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health;
- (b) arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;
- (c) the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of his employees;
- (d) so far as is reasonably practicable as regards any place of work under the employer's control, the maintenance of it in a condition that is safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks;
- (e) the provision and maintenance of a working environment for his employees that is, so far as is reasonably practicable, safe and without risks to health, and adequate as regards facilities and arrangements for their welfare at work.

Employees' duty to ensure health, safety and welfare.

4. It shall be the duty of every employee while at work—

- (a) to take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at work; and
- (b) as regards any duty or requirement imposed on his employer or any other person by or under any of the relevant statutory provisions, to co-operate with him so far as is necessary to enable that duty or requirement to be performed or complied with.

Duty not to interfere with anything provided in the interests of safety.

5. No person shall intentionally or recklessly interfere with or misuse anything provided in the interests of health, safety or welfare in pursuance of any of the relevant statutory provisions.

Obligation not to impose charges.

6. No employer shall levy or permit to be levied on any employee of his any charge in respect of anything done or provided in pursuance of any specific requirement of the relevant statutory provisions.

Risk assessment.

7.(1) Every employer shall make a suitable and sufficient assessment of—

- (a) the risks to the health and safety of his employees to which they are exposed whilst they are at work; and
- (b) the risks to the health and safety of persons not in his employment arising out of or in connection with the conduct by him of his undertaking,

for the purpose of identifying the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions.

(2) Where the employer employs five or more employees, he shall record—

- (a) the significant findings of the assessment; and
- (b) any group of his employees identified by it as being especially at risk.

(3) Any assessment such as is referred to in subregulation (1) or (2) shall be reviewed by the employer who made it if—

- (a) there is reason to suspect it is no longer valid; or
- (b) there has been a significant change in the matters to which it relates,

and where as a result of any such review changes to an assessment are required, the employer concerned shall make them.

General principles of prevention.

7A. Where an employer implements any preventive and protective measures he shall do so on the basis of the principles specified in the Schedule.

Health and safety arrangements.

8.(1) Every employer shall make and give effect to such arrangements as are appropriate, having regard to the nature of his activities and the size of his undertaking, for the effective planning, organisation, control, monitoring and review of the preventive and protective measures.

(2) Where the employer employs five or more employees, he shall record the arrangements referred to in subregulation (1).

(3) Every employer shall ensure that the planning and introduction of new technologies are the subject of consultation with his employees and, where appropriate, their representatives, as regards the consequences of the choice of equipment, the working conditions and the working environment for the safety and health of those employees.

(4) Every employer shall consult employees, and where they are represented, their representatives on all questions relating to safety and health at work and in particular shall consult in advance and in good time with regard to—

- (a) the introduction of any measure at any workplace which may substantially affect the health and safety of the employees;
- (b) his arrangements for appointing, or as the case may be, nominating persons in accordance with regulations 10(1) and 11(1)(b);

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- (c) any health and safety information he is required to provide to the employees by or under these Regulations or any relevant statutory provisions;
 - (d) the planning and organisation of any health and safety training he is required to provide by or under these Regulations or any relevant statutory provisions.
- (5) Employees' representatives may—
- (a) ask the employer to take appropriate measures; or
 - (b) submit proposals to the employer, in either case for the purpose of mitigating hazards and where appropriate removing sources of danger.
- (6) Employees' representatives shall be entitled to adequate time off work without loss of pay and shall be entitled to have access to the necessary means to enable them to exercise their rights and functions.
- (7) Without prejudice to the generality of subregulation (6) such access shall include—
- (a) access to copies of the documents referred to in section 71(1) of the Act;
 - (b) the opportunity to submit observations during a visit by an inspector to the employer's undertaking.
- (8) Employees' representatives may appeal to an inspector where the measures taken and the means employed by the employer are inadequate for the purposes of ensuring safety and health at work.
- (9) Employees' representatives shall be entitled to appropriate training which shall not be at their expense.

Health surveillance.

9. Every employer shall ensure that his employees are provided with such health surveillance as is appropriate having regard to the risks to their health and safety which are identified by the assessment.

Health and safety assistance.

10.(1) Every employer shall, subject to subregulations (2) and (3), appoint one or more competent persons to assist him in undertaking the measures he needs to take to comply with

the requirements and prohibitions imposed upon him by or under the relevant statutory provisions.

(2) Subregulation (1) shall not apply to a self-employed person or an employer who is not in partnership with any other person where he has sufficient training and experience or knowledge and other qualities properly to undertake the measures referred to in that subregulation himself.

(3) Subregulation (1) shall not apply to individuals carrying on the business of any partnership which employs persons where one or more of those individuals has sufficient training and experience or knowledge and other qualities—

- (a) properly to undertake the measures he needs to take to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions; and
- (b) properly to assist his fellow partners in undertaking the measures they need to take to comply with the requirements and prohibitions imposed upon them by or under the relevant statutory provisions.

(4) Where an employer appoints persons in accordance with subregulation (1), he shall make arrangements for ensuring adequate co-operation between them.

(5) The employer shall ensure that the number of persons appointed under subregulation (1), the time available for them to fulfil their functions and the means at their disposal are adequate having regard to the size of his undertaking, the risks to which his employees are exposed and the distribution of those risks throughout the undertaking.

(6) The employer shall ensure that—

- (a) any person appointed by him in accordance with subregulation (1) who is not in his employment—
 - (i) is informed of the factors known by him to affect, or suspected by him of affecting, the health and safety of any other person who may be affected by the conduct of his undertaking, and
 - (ii) has access to the information referred to in regulation 12; and
- (b) any person appointed by him in accordance with subregulation (1) is given such information about any person working in his undertaking who is—

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- (i) employed by him under a fixed-term contract of employment, or
- (ii) employed in an employment business,

as is necessary to enable a person so appointed properly to carry out the function specified in that subregulation.

(7) A person shall be regarded as competent for the purposes of subregulation (1) where he has sufficient training and experience or knowledge and other qualities to enable him properly to assist in undertaking the measures referred to in that paragraph.

(8) Where the person appointed under subregulation (1) is an employee, he shall not be placed at any disadvantage because of his activities related to the protection and prevention of occupational risks.

Procedures for serious and imminent danger and for danger areas.

11.(1) Every employer shall—

- (a) establish and where necessary give effect to appropriate procedures to be followed in the event of serious and imminent danger to persons at work in his undertaking;
- (b) nominate a sufficient number of competent persons to implement those procedures insofar as they relate to the evacuation from premises of persons at work in his undertaking;
- (c) ensure that none of his employees has access to any area occupied by him to which it is necessary to restrict access on grounds of health and safety unless the employee concerned has received adequate health and safety instruction;
- (d) take the necessary measures for first aid, fire-fighting and evacuation of employees, adapted to the nature of the activities and the size of the undertaking and taking into account other persons present;
- (e) arrange any necessary contacts with external services, particularly as regards first aid, emergency medical care, rescue work and fire fighting.

(2) Without prejudice to the generality of subregulation (1)(a), the procedures referred to in that subregulation shall—

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- (a) so far as is practicable, require any persons at work who are exposed to serious and imminent danger to be informed of the nature of the hazard and of the steps taken or to be taken to protect them from it;
- (b) enable the persons concerned (if necessary by taking appropriate steps in the absence of guidance or instruction and in the light of their knowledge and the technical means at their disposal) to stop work and immediately proceed to a place of safety in the event of their being exposed to serious, imminent and unavoidable danger; and
- (c) save in exceptional cases for reasons duly substantiated (which cases and reasons shall be specified in those procedures), require the persons concerned to be prevented from resuming work in any situation where there is still a serious and imminent danger.

(3) A person shall be regarded as competent for the purposes of subregulation (1)(b) where he has sufficient training and experience or knowledge and other qualities to enable him properly to implement the evacuation procedures referred to in that subregulation.

(4) An employee shall not be placed at any disadvantage because of his actions in pursuance of this regulation unless he has acted carelessly or there was negligence on his part.

Information for employees.

12. Every employer shall provide his employees with comprehensible and relevant information on—

- (a) the risks to their health and safety identified by the assessment;
- (b) the preventive and protective measures;
- (c) the procedures referred to in regulation 11(1)(a);
- (d) the identity of those persons nominated by him in accordance with regulation 11(1)(b);
- (e) the measures referred to in regulation 11(1)(d);
- (f) the risks notified to him in accordance with regulation 13(1)(c).

Co-operation and co-ordination.

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13.(1) Where two or more employers share a place of work (whether on a temporary or a permanent basis) each such employer shall—

- (a) co-operate with the other employers concerned so far as is necessary to enable them to comply with the requirements and prohibitions imposed upon them by or under the relevant statutory provisions;
- (b) (taking into account the nature of his activities) take all reasonable steps to co-ordinate the measures he takes to comply with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions with the measures taken in that regard by the other employers concerned; and
- (c) take all reasonable steps to inform the other employers concerned of the risks to their employees' health and safety arising out of or in connection with the conduct by him of his undertaking.

(2) Subregulation (1) shall apply to employers sharing a workplace with self-employed persons and to self-employed persons sharing a workplace with other self-employed persons as it applies to employers sharing a workplace with other employers and the references in that subregulation to employers and to their employees shall be construed accordingly.

Persons working in host employers' undertakings.

14.(1) Every employer and every self employed person shall ensure that the employer of any employees from an outside undertaking who are working in his undertaking is provided with comprehensible information on—

- (a) the risks to those employees' health and safety which arise out of or in connection with the conduct by that first-mentioned employer or by that self-employed person of his undertaking; and
- (b) the measures taken by that first-mentioned employer or by that self-employed person in compliance with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions insofar as the said requirements and prohibitions relate to those employees.

(2) Subregulation (1) shall apply to a self-employed person who is working in the undertaking of an employer or a self-employed person as it applies to employees from an outside undertaking who are working therein and the reference in that subregulation to the employer of any employees from an outside undertaking who are working in the undertaking of an employer or a self-employed person and the references in that regulation to

employees from an outside undertaking who are working in the undertaking of an employer or a self-employed person shall be construed accordingly.

(3) Every employer shall ensure that any person working in his undertaking who is not his employee is provided with appropriate instructions and comprehensible information regarding any risks to that person's health and safety which arise out of the conduct by that employer of his undertaking.

(4) Every employer shall—

- (a) ensure that the employer of any employees from an outside undertaking who are working in his undertaking is provided with sufficient information to enable that second-mentioned employer to identify any person nominated by that first-mentioned employer in accordance with regulation 11(1)(b) to implement evacuation procedures as far as those employees are concerned; and
- (b) take all reasonable steps to ensure that any employees from an outside undertaking who are working in his undertaking receive sufficient information to enable them to identify any person nominated by him in accordance with regulation 11(1)(b) to implement evacuation procedures as far as they are concerned.

(5) Subregulation (4) shall apply to a self-employed person who is working in an employer's undertaking as it applies to employees from an outside undertaking who are working therein and the reference in that subregulation to the employer of any employees from an outside undertaking who are working in an employer's undertaking and the references in that subregulation to employees from an outside undertaking who are working in an employer's undertaking shall be construed accordingly.

Capabilities and training.

15.(1) Every employer shall, in entrusting tasks to his employees, take into account their capabilities as regards health and safety.

(2) Every employer shall ensure that his employees are provided with adequate health and safety training—

- (a) on their being recruited into the employer's undertaking;
- (b) on their being exposed to new or increased risks because of—
 - (i) their being transferred or given a change of responsibilities within the employer's undertaking;

- (ii) the introduction of new work equipment into or a change respecting work equipment already in use within the employer's undertaking;
 - (iii) the introduction of new technology into the employer's undertaking;
 - (iv) the introduction of a new system of work into or a change respecting a system of work already in use within the employer's undertaking.
- (3) The training referred to in subregulation (2) shall—
- (a) be repeated periodically where appropriate;
 - (b) be adapted to take account of any new or changed risks to the health and safety of the employees concerned;
 - (c) take place during working hours; and
 - (d) not be at the expense of either the employees or of their representatives.
- (4) Without prejudice to regulation 8(9), employees' representatives shall be entitled to appropriate training in accordance with subregulation (3).

Employees' duties.

16.(1) Every employee shall use any machinery, equipment, dangerous substance, transport equipment, means of production or safety device provided to him by his employer in accordance both with any training in the use of equipment concerned which has been received by him and the instructions respecting that use which have been provided to him by that employer in compliance with the requirements and prohibitions imposed upon him by or under the relevant statutory provisions.

- (2) Every employee shall inform his employer or any other employee of that employer with specific responsibility for the health and safety of his fellow employees—
- (a) of any work situation which a person with his training and instruction would reasonably consider represented a serious and immediate danger to health and safety; and
 - (b) of any matter which a person with his training and instruction would reasonably consider represented a shortcoming in the employer's protection arrangements for health and safety,

insofar as that situation or matter either affects the health and safety of the employee concerned or arises out of or in connection with his own activities at work, and has not previously been reported to that employer or to any other employee of that employer in accordance with this subregulation.

Temporary workers.

17.(1) Every employer shall (before the employee concerned commences his duties) provide any person employed by him under a fixed-term contract of employment with comprehensible information on—

- (a) any special occupational qualifications or skills required to be held by that employee if he is to carry out his work safely; and
- (b) any health surveillance required to be provided to that employee by or under any of the relevant statutory provisions.

(2) Every employer and every self-employed person shall provide any person employed in an employment business who is to carry out work in his undertaking with comprehensible information on—

- (a) any special occupational qualifications or skills required to be held by that employee if he is to carry out his work safely; and
- (b) any health surveillance required to be provided to that employee by or under any of the relevant statutory provisions.

(3) Every employer and every self-employed person shall ensure that every person carrying on an employment business whose employees are to carry out work in his undertaking is provided with comprehensible information on—

- (a) any special occupational qualifications or skills required to be held by those employees if they are to carry out their work safely; and
- (b) the specific features of the jobs to be filled by those employees (insofar as those features are likely to affect their health and safety);

and the person carrying on the employment business concerned shall ensure that the information so provided is given to the said employees.

Improvement notices.

18. If an inspector is of the opinion that a person—

- (a) is contravening one or more of the relevant statutory provisions; or
- (b) has contravened one or more of those provisions in circumstances that make it likely that the contravention will continue to be repeated,

he may serve on him a notice (“an improvement notice”) stating that he is of that opinion, specifying the provision or provisions as to which he is of that opinion, giving particulars of the reasons why he is of that opinion, and requiring that person to remedy the contravention or, as the case may be, the matters occasioning it within such period (ending not earlier than the period within which an appeal against the notice can be brought under regulation 21) as may be specified in the notice.

Prohibition notices.

19.(1) This regulation applies to any activities which are being or are about to be carried on by or under the control of any person, being activities to or in relation to which any of the relevant statutory provisions apply or will, if the activities are so carried on, apply.

(2) If as regards any activities to which this regulation applies an inspector is of the opinion that, as carried on or about to be carried on by or under the control of the person in question, the activities involve or, as the case may be, will involve a risk of serious personal injury, the inspector may serve that person a notice (“a prohibition notice”).

(3) A prohibition notice shall—

- (a) state that the inspector is of that opinion;
- (b) specify the matters which in his opinion give or, as the case may be, will give rise to that risk;
- (c) where in his opinion any of those matters involved or, as the case may be, will involve a contravention of any of the relevant statutory provisions, state that he is of that opinion, specify the provision or provisions as to which he is of that opinion, and give particulars of the reasons why he is of that opinion; and
- (d) direct that the activities to which the notice relates shall not be carried on by or under the control of the person on whom the notice is served unless the matters specified in the notice in pursuance of paragraph (b) and any associated

contraventions of provisions specified in pursuance of paragraph (c) have been remedied.

(4) A direction given in pursuance of subregulation (3)(d) shall take immediate effect if the inspector is of the opinion, and states it, that the risk of serious personal injury is or as the case may be, will be imminent, and shall have effect at the end of a period specified in the notice in any other case.

Provisions supplementary to regulations 18 and 19.

20.(1) In this regulation "a notice" means an improvement notice or a prohibition notice.

(2) A notice may (but need not) include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates and any such directions may be framed so as to afford the person on whom the notice is served a choice between ways of remedying the contravention or matter.

(3) Where an improvement notice or a prohibition notice which is not to take immediate effect has been served—

- (a) the notice may be withdrawn by an inspector at any time before the end of the period specified therein in pursuance of regulation 18 or regulation 19(4), as the case may be; and
- (b) the period so specified may be extended or further extended by an inspector at any time when an appeal against the notice is not pending.

Appeal against improvement or prohibition notice.

21.(1) In this regulation "a notice" means an improvement notice or a prohibition notice.

(2) A person on whom a notice is served may within 21 days from the date of its service appeal to the Employment Tribunal and on such an appeal the Tribunal may either cancel or affirm the notice and, if it affirms it, may do so either in its original form or with such modifications as the Tribunal may in the circumstances think fit.

(3) Where an appeal under this regulation is brought against a notice within the period allowed under subregulation (2) then—

- (a) in the case of an improvement notice, the bringing of the appeal shall have the effect of suspending the operation of the notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal;

- (b) in the case of a prohibition notice, the bringing of the appeal shall have the like effect if, on the application of the appellant, the Tribunal so directs (and then only from the giving of the direction).

Power to deal with cause of imminent danger.

22.(1) Where, in the case of any article or substance found by him in any premises which he has power to enter, an inspector has reasonable cause to believe that, in the circumstances in which he finds it, the article or substance is a cause of imminent danger of serious personal injury, he may seize it and cause it to be rendered harmless (whether by destruction or otherwise).

(2) Before there is rendered harmless under this regulation—

- (a) any article that forms part of a batch of similar articles; or
- (b) any substance,

the inspector shall, if it is practicable for him to do so, take a sample thereof and give to a responsible person at the premises where the article or substance was found by him a portion of the sample marked in a manner sufficient to identify it.

(3) As soon as may be after any article or substance has been seized and rendered harmless under this regulation, the inspector shall prepare and sign a written report giving particulars of the circumstances in which the article or substance was seized and so dealt with by him, and shall—

- (a) give a signed copy of the report to a responsible person at the premises where the article or substance was found by him; and
- (b) unless that person is the owner of the article or substance, also serve a signed copy of the report on the owner;

and if, where paragraph (b) applies, the inspector cannot after reasonable enquiry ascertain the name or address of the owner, the copy may be served on him by giving it to the person to whom a copy was given under paragraph (a).

Civil liability for breach of statutory duty.

23. Breach of a duty imposed by these Regulations shall confer a right of action in any civil proceedings

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Offences and penalties.

24.(1) It is an offence for a person—

- (a) to fail to discharge a duty to which he is subject by virtue of the relevant statutory provisions;
- (b) to contravene any requirement or prohibition imposed under the relevant statutory provisions.

(2) A person guilty of an offence under subregulation (1) shall be liable on summary conviction to a fine of four times the amount at level 5 on the standard scale.

The Crown.

25.(1) These Regulations except regulation 24 shall bind the Crown.

(2) Although it does not bind the Crown regulation 24 shall apply to persons in the service of the Crown as it applies to other persons.

(3) For the purposes of these Regulations persons in the service of the Crown shall be treated as employees of the Crown whether or not they would be so treated apart from this regulation.

SCHEDULE
General principles of prevention

Regulation 7A

This Schedule reproduces the general principles of prevention set out in Article 6(2) of Council Directive 89/391/EEC—

- (a) avoiding risks;
- (b) evaluating the risks which cannot be avoided;
- (c) combating the risks at source;
- (d) adapting the work to the individual, especially as regards the design of work places, the choice of work equipment and the choice of working and production methods, with a view, in particular, to alleviating monotonous work and work at a predetermined work-rate and to reducing their effect on health;
- (e) adapting to technical progress;
- (f) replacing the dangerous by the non-dangerous or the less dangerous;
- (g) developing a coherent overall prevention policy which covers technology, organization of work, working conditions, social relationships and the influence of factors related to the working environment;
- (h) giving collective protective measures priority over individual protective measures;
- (i) giving appropriate instructions to the workers.