

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4195 of 4th September, 2015

LEGAL NOTICE NO. 143 OF 2015.

INTERPRETATION AND GENERAL CLAUSES ACT

HEALTH AND SAFETY (SUBSTANCES AND MIXTURES) REGULATIONS 2015

In exercise of the powers conferred upon him and upon the Government by sections 23(g)(i) and (ii) of the Interpretation and General Clauses Act, respectively, and all other enabling powers, and in order to implement Directive 2014/27/EU of the European Parliament and of the Council of 26 February 2014 amending Council Directives 92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council, in order to align them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures, the Minister and the Government have made the following Regulations-

Title.

1. These Regulations may be cited as the Health and Safety (Substances and Mixtures) Regulations 2015.

Commencement.

2. These Regulations come into operation on the day of publication.

Amendments to Health and Safety (Safety Signs and Signals) Regulations, 1996.

3.(1) The Health and Safety (Safety Signs and Signals) Regulations, 1996 are amended in accordance with this regulation.

(2) Insert the following definition after the definition of “prohibition sign”-

“Regulation (EC) No. 1272/2008” means Regulation (EC) No. 1272/2008 of the European Parliament and the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives

67/548/EEC and 1999/45/EC, and amending Regulation (EC) No. 1907/2006;”.

- (3) Substitute regulation 3(a) for the following-

“(a) to signs for the placing on the market of hazardous substances, mixtures, products or equipment except to the extent that any law makes reference to these Regulations;”.

- (4) Substitute paragraph 12 in Part I of the Schedule for the following-

“12. Areas, rooms or enclosures used for the storage of significant quantities of hazardous substances or mixtures must be indicated by a suitable warning sign taken from paragraph 3.2 of Part II, or marked as provided in paragraph 1 of Part III, unless the labelling of the individual packages or containers is adequate for this purpose. If there is no equivalent warning sign in paragraph 3.2 of Part II to warn about hazardous chemical substances or mixtures, the relevant hazard pictogram, as laid down in Annex V of Regulation (EC) No. 1272/2008 must be used.”.

- (5) In paragraph 3.2 in Part II of the Schedule-

(a) delete the warning sign and wording for “Harmful or irritant material”;

(b) insert the following footnote for the warning sign “General danger”-

“*** This warning sign shall not be used to warn about hazardous chemical substances or mixtures, except for cases when the warning sign is used in accordance with the second paragraph of paragraph 5 of Part III of the Schedule to indicate the stores of hazardous substances or mixtures.”.

- (6) Substitute paragraph 1 of Part III of the Schedule for the following paragraph-

“1. Containers used at work for chemical substances or mixtures classified as hazardous according to the criteria for any physical or health hazard class in accordance with Regulation (EC)

No 1272/2008, and containers used for the storage of such hazardous substances or mixtures, together with the visible pipes containing or transporting such hazardous substances and mixtures, must be labelled with the relevant hazard pictograms in accordance with that Regulation.

The first paragraph does not apply to containers used at work for brief periods nor to containers whose contents change frequently, provided that alternative adequate measures are taken, in particular for information or training, which guarantee the same level of protection.

The labels referred to in the first paragraph may be-

— replaced by warning signs set out in Part II, using the same pictograms or symbols. If there is no equivalent warning sign in paragraph 3.2 of Part II, the relevant hazard pictogram set out in Annex V of Regulation (EC) No 1272/2008 must be used;

— supplemented by additional information, such as the name or formula of the hazardous substance or mixture and the details of the hazard;

— for the transporting of containers at the place of work, supplemented or replaced by signs that are applicable throughout the European Union for the transport of hazardous substances or mixtures.”.

(7) In paragraph 5 of Part III of the Schedule substitute the two instances of the word-

- (a) “dangerous” for “hazardous”; and
- (b) “preparations” for “mixtures”.

Amendments to Employment Act.

4.(1) The Employment Act is amended in accordance with this regulation.

(2) Insert the following section after section 31-

“Prohibition for certain work.

- 31A.(1) For the protection of persons under the age of 18 from any specific risks to their safety, health and development which are a consequence of their lack of experience, of absence of awareness of existing or potential risks or of the fact that young people have not yet fully matured, and without prejudice to section 33, their employment is prohibited if it involves-
- (a) work which is objectively beyond their physical or psychological capacity;
 - (b) work involving harmful exposure to agents which are toxic, carcinogenic, cause heritable genetic damage, or harm to the unborn child or which in any other way chronically affect human health;
 - (c) work involving harmful exposure to radiation;
 - (d) work involving the risk of accidents which it may be assumed cannot be recognized or avoided by young persons owing to their insufficient attention to safety or lack of experience or training; or
 - (e) work in which there is a risk to health from extreme cold or heat, or from noise or vibration.
- (2) Work which is likely to entail specific risks for persons under the age of 18 years, within the meaning of subsection (1) includes-
- (a) work involving harmful exposure to the physical, biological and chemical agents referred to in Part 1 of the Schedule 3, and
 - (b) processes and work referred to in Part 2 of the Schedule 3.
- (3) The competent authority may, authorise derogations from subsections (1) and (2) in the case of young persons, where such derogations are indispensable for their vocational training and provided that protection of their safety and health is ensured by the fact that the work is performed under the

supervision of a competent person within the meaning of Article 7 of Directive 89/391/EEC and provided that the protection afforded by that Directive is guaranteed.”.

- (3) Insert the following Schedule after Schedule 2-

“SCHEDULE 3

Non-Exhaustive List of Agents, Processes and Work

PART 1

Agents

1. Physical agents.

- (a) Ionizing radiation;
- (b) Work in a high-pressure atmosphere, e.g. in pressurised containers, diving.

2. Biological agents.

- (a) Biological agents of risk groups 3 and 4 within the meaning of points 3 and 4 of second paragraph of article 2 of Directive 2005/54/EC of the European Parliament and the Council.

3. Chemical agents.

- (a) Substances and mixtures which meet the criteria for classification under Regulation (EC) No 1272/2008 of the European Parliament and of the Council in one or more of the following hazard classes and hazard categories with one or more of the following hazard statements-
 - acute toxicity, category 1, 2 or 3 (H300, H310, H330, H301, H311, H331);
 - skin corrosion, category 1A, 1B or 1C (H314);
 - flammable gas, category 1 or 2 (H220, H221);

- flammable aerosols, category 1 (H222);
 - flammable liquid, category 1 or 2 (H224, H225);
 - explosives, categories ‘Unstable explosive’, or explosives of Divisions 1.1, 1.2, 1.3, 1.4, 1.5 (H200, H201, H202, H203, H204, H205);
 - self-reactive substances and mixtures, type A, B, C or D (H240, H241, H242);
 - organic peroxides, type A or B (H240, H241);
 - specific target organ toxicity after single exposure, category 1 or 2 (H370, H371);
 - specific target organ toxicity after repeated exposure, category 1 or 2 (H372, H373);
 - respiratory sensitisation, category 1, subcategory 1A or 1B (H334);
 - skin sensitisation, category 1, subcategory 1A or 1B (H317);
 - carcinogenicity, category 1A, 1B or 2 (H350, H350i, H351);
 - germ cell mutagenicity, category 1A, 1B or 2 (H340, H341);
 - reproductive toxicity, category 1A or 1B (H360, H360F, H360FD, H360Fd, H360D, H360Df).
- (b) Substances and mixtures referred to in point (ii) of point (a) of article 2 of Directive 2004/37/EC of the European Parliament and of the Council;
- (c) Lead and compounds thereof, inasmuch as the agents in question are absorbable by the human organism;
- (d) Asbestos.

PART 2
Processes and work

1. Processes at work referred to in Annex I to Directive 2004/37/EC.
2. Manufacture and handling of devices, fireworks or other objects containing explosives.
3. Work with fierce of poisonous animals.
4. Animal slaughtering on an industrial scale.
5. Work involving the handling of equipment for the production, storage or application of compressed, liquefied or dissolved gases.
6. Work with vats, tanks, reservoirs or carboys containing chemical agents referred to in paragraph 3 of Part I of this Schedule.
7. Work involving a risk of structural collapse.
8. Work involving high-voltage electrical hazards.
9. Work the pace of which is determined by machinery and involving payment by results.”.

Amendments to Factories (Control of Chemical Agents at Work) Regulations 2003.

5.(1) The Factories (Control of Chemical Agents at Work) Regulations 2003 are amended in accordance with this regulation.

(2) Substitute the definition of “Hazardous chemical agent” in regulation 2(1) for the following definition-

““Hazardous chemical agent” means-

- (i) a chemical agent which meets the criteria for classification as hazardous within any physical or health hazard classes laid down in Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling

and packaging of substances and mixtures, whether or not that chemical agent is classified under that Regulation;

- (ii) a chemical agent which, whilst not meeting the criteria for classification as hazardous in accordance with paragraph (i) may, because of its physico-chemical, chemical or toxicological properties and the way it is used or is present in the workplace, present a risk to the safety and health of workers, including any chemical agent that is assigned an occupational exposure limit value under regulation 4;”.

- (3) Substitute regulation 5(2)(b) for the following paragraph-

“(b) information on safety and health that shall be provided by the supplier (e.g. the relevant safety data sheet in accordance with Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals);”.

- (4) Substitute regulation 10(1)(d) for the following paragraph-

“(d) access to any safety data sheet provided by the supplier in accordance with article 31 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures.”.

Amendments Factories (Control of Carcinogens and Mutagens at Work) Regulations 2003.

6.(1) The Factories (Control of Carcinogens and Mutagens at Work) Regulations 2003 are amended in accordance with this regulation.

(2) In regulation 2(1), in the definition of “carcinogen”, substitute both instances of the word “preparation” for “mixture”.

- (3) Substitute regulation 2(2) for the following subsection-

“(2) Where a provision in these Regulations is more favourable to health and safety than an equivalent provision in the Control of Asbestos Regulations 2007 then the provision contained in these Regulations shall take precedence.”.

- (4) Substitute in regulation 4(1)(b) “preparations” for “mixtures”.

(5) Insert “, mixture” after “substance” in the frontispiece of regulation 5(2).

(6) Substitute paragraphs 1 and 2 in Schedule 1, Part 1 for the following paragraphs-

“1. A carcinogen is-

- (a) a substance or mixture which meets the criteria for classification as a category 1A or 1B carcinogen set out in Annex I to Regulation (EC) No 1272/2008 of the European Parliament and of the Council;
- (b) a substance, mixture or process referred to in Schedule 2 as well as a substance or mixture released by a process referred to in Schedule 2.

2. A mutagen is-

a substance or mixture which meets the criteria for classification as a category 1A or 1B germ cell mutagen set out in Annex I to Regulation (EC) No 1272/2008 of the European Parliament and of the Council.”.

(7) Substitute in the heading of Schedule 2 “preparations” for “mixtures”.

Amendment to Protection of Pregnant Workers Regulations, 1996.

7.(1) The Protection of Pregnant Workers Regulations, 1996 are amended in accordance with this regulation.

(2) In regulation 2, before the definition “given birth” insert the following definition-

““Annex” means an annex to Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding, which is reproduced for information purposes in the Schedule;

“Article” without more, means an article of Council Directive 92/85/EEC”.

(3) After regulation insert the following schedule-

“SCHEDULE

THIS SCHEDULE REPRODUCES ANNEXES I AND II OF
DIRECTIVE 92/85/EEC

ANNEX I
NON-EXHAUSTIVE LIST OF AGENTS, PROCESSES AND
WORKING CONDITIONS

referred to in Article 4 (1)

A. Agents

1. Physical agents where these are regarded as agents causing foetal lesions and/or likely to disrupt placental attachment, and in particular:

- (a) shocks, vibration or movement;
- (b) handling of loads entailing risks, particularly of a dorsolumbar nature;
- (c) noise;
- (d) ionizing radiation¹;
- (e) non-ionizing radiation;
- (f) extremes of cold or heat;
- (g) movements and postures, travelling — either inside or outside the establishment — mental and physical fatigue and other

¹SEE DIRECTIVE 80/836/EURATOM (OJ NO L 246, 17.9.1980, P. 1).

physical burdens connected with the activity of the worker within the meaning of Article 2 of the Directive.

2. Biological agents

Biological agents of risk groups 2, 3 and 4 within the meaning of points 2, 3 and 4 of second paragraph of Article 2 of Directive 2000/54/EC of the European Parliament and of the Council (7), in so far as it is known that such agents or the therapeutic measures necessitated by them endanger the health of pregnant women and the unborn child, and in so far as they do not yet appear in Annex II.

3. Chemical agents

The following chemical agents in so far as it is known that they endanger the health of pregnant women and the unborn child and in so far as they do not yet appear in Annex II:

- (a) substances and mixtures which meet the criteria for classification under Regulation (EC) No 1272/2008 of the European Parliament and of the Council (8) in one or more of the following hazard classes and hazard categories with one or more of the following hazard statements, in so far as they do not yet appear in Annex II:
- germ cell mutagenicity, category 1A, 1B or 2 (H340, H341);
 - carcinogenicity, category 1A, 1B or 2 (H350, H350i, H351);
 - reproductive toxicity, category 1A, 1B or 2 or the additional category for effects on or via lactation (H360, H360D, H360FD, H360Fd, H360Df, H361, H361d, H361fd, H362);
 - specific target organ toxicity after single exposure, category 1 or 2 (H370, H371);

- (b) chemical agents in Annex I to Directive 2004/37/EC of the European Parliament and of the Council

B. Processes

Industrial processes listed in Annex I to Directive 2004/37/EC.

C. Working conditions

Underground mining work.

ANNEX II

**NON-EXHAUSTIVE LIST OF AGENTS AND WORKING
CONDITIONS**

referred to in Article 6

A. Pregnant workers within the meaning of Article 2(a)

1. *Agents*

(a) Physical agents

Work in hyperbaric atmosphere, e.g. pressurized enclosures and underwater diving.

(b) Biological agents

The following biological agents:

— toxoplasma,

— rubella virus,

unless the pregnant workers are proved to be adequately protected against such agents by immunization.

(c) Chemical agents

Lead and lead derivatives in so far as these agents are capable of being absorbed by the human organism.

2. *Working conditions*

Underground mining work.

B. Workers who are breastfeeding within the meaning of Article 2(c)

1. *Agents*

(a) Chemical agents

Lead and lead derivatives in so far as these agents are capable of being absorbed by the human organism.

2. *Working conditions*

Underground mining work.”.

Dated 4th September, 2015.

N F COSTA,
Minister with responsibility for Health and Safety
and for the Government.

EXPLANATORY MEMORANDUM

These Regulations transpose Directive 2014/27/EU of the European Parliament and of the Council of 26 February 2014 amending Council Directives 92/58/EEC, 92/85/EEC, 94/33/EC, 98/24/EC and Directive 2004/37/EC of the European Parliament and of the Council, in order to align them to Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.

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