

2015 No. 223

HEALTH AND SAFETY

The Health and Safety (Miscellaneous Repeals, Revocations and Amendments) Regulations (Northern Ireland) 2015

Made - - - - *17th April 2015*

Coming into operation - *1st June 2015*

The Department of Enterprise, Trade and Investment(a), being the Department concerned(b), makes the following Regulations in exercise of the powers conferred by Articles 17(1) to (6), 20(2), 40(2), 45(1), 54(1) and (2) and 55(2) and paragraphs 1(1), (2), (3), (4), (8), (9), (10) and (11) and 3, 5, 7, 8, 9, 10, 11, 12(1), 13, 14, 15, 17 and 20(a) and (b) of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(c) (“the 1978 Order”).

The Regulations, apart from the modifications referred to in the next paragraphs, give effect without modifications to proposals submitted to it by the Health and Safety Executive for Northern Ireland under Article 13(1A)(d) of the 1978 Order after the Executive had carried out consultations in accordance with Article 46(3)(e).

It appears to the Department concerned that the modifications made by regulation 8 are expedient as set out in Article 54 (1) of the 1978 Order.

It also appears to the Department concerned not to be appropriate to consult bodies in respect of those modifications in accordance with Article 54 (5) of the 1978 Order.

Citation and commencement

1.—(1) These Regulations may be cited as the Health and Safety (Miscellaneous Repeals, Revocations and Amendments) Regulations (Northern Ireland) 2015 and shall come into operation on 1st June 2015.

Repeals and Revocations

2.—(1) The primary legislation referred to in column 1 of Tables 1 and 3 of the Schedule is repealed to the extent specified in the corresponding entry in column 3 of those tables.

(2) The instruments referred to in column 1 of Tables 2 and 4 of the Schedule are revoked to the extent specified in the corresponding entry in column 3 of those tables.

(a) Formerly the Department of Economic Development; see S.I. 1999/283 (N.I. 1), Article 3(5); that Department was formerly the Department of Manpower Services, see S.I. 1982/846 (N.I. 11), Article 3
(b) See Article 2(2) of S.I. 1978/1039 (N.I. 9)
(c) S.I. 1978/1039 (N.I. 9)
(d) Article 13(1) was substituted by S.I. 1998/2795 (N.I. 18), Article 4
(e) Article 46(3) was amended by S.I. 1998/2795 (N.I. 18), Article 6(1) and Schedule 1, paragraphs 8 and 18

Consequential amendments to the Dangerous Substances (Notification and Marking of Sites) Regulations (Northern Ireland) 1992

3.—(1) The Dangerous Substances (Notification and Marking of Sites) Regulations (Northern Ireland) 1992(a) shall be amended as follows.

(2) In regulation 2(1)—

(i) in the definition of “the Fire Authority”, for the words “the Fire Authority for Northern Ireland”, substitute “the Northern Ireland Fire and Rescue Service Board”; and

(ii) before the definition of “site” insert—

““relevant ammonium nitrate mixtures” means ammonium nitrate and mixtures containing ammonium nitrate where the nitrogen content exceeds 15.75% of the mixture by weight;”.

(3) In regulation 2(3)—

(i) after the words “the total quantity of dangerous substances” insert “or relevant ammonium nitrate mixtures”;

(ii) for “such substances” substitute “dangerous substances or relevant ammonium nitrate mixtures”; and

(iii) after “any dangerous substances” insert “or relevant ammonium nitrate mixtures”.

(4) After regulation 4(3), insert —

“(4) The person in control of a site shall ensure that there is not present at any one time a total quantity of 150 tonnes or more of relevant ammonium nitrate mixtures at the site unless there has been notified in writing to the Fire Authority the particulars specified in Part I of Schedule 2.

(5) Where a notification has been made under paragraph (4) and a change specified in Part II of Schedule 2 takes place, the person in control of the site shall forthwith notify that change in writing to the Fire Authority.

(6) Where a change specified in paragraph 1 or 2 of Part II of Schedule 2 has been notified under paragraph (5), any resumption in the presence of a total quantity of 150 tonnes or more of relevant ammonium nitrate mixtures at the site shall be subject to a fresh notification under paragraph (4).”.

(5) For regulation 8 (Enforcing authority), substitute —

“8. The enforcing authority for these Regulations shall be the Fire Authority except that—

(a) the enforcing authority for regulation 4(1) and 4(2) shall be ascertained in accordance with the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999; and

(b) the enforcing authority for regulations 5 to 7 in relation to a site occupied by a body specified in regulation 5(4) of the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999 shall be the Executive.”.

(6) In regulation 10, after (2), add—

“(3) Where a notification in respect of relevant ammonium nitrate mixtures has been made to the Executive on or after x xxx 2015 and on or before x xxx 2015 as if that notification were being made pursuant to regulation 3 of the Notification of Installations Handling Hazardous Substances Regulations (Northern Ireland) 1984 as that regulation was in operation immediately before the coming into operation of regulation 3 of the Health and Safety (Miscellaneous Repeals, Revocations and Amendments) Regulations (Northern Ireland) 2015, that notification is deemed to be a notification to the Fire Authority pursuant to regulation 4 of these Regulations.”.

(a) S.R. 1992 No. 71

(7) In the heading of Part I of Schedule 2, after “4(1)” add “AND (4)”.

(8) After paragraph 4 of Part I of Schedule 2, insert—

“4A. The total quantity of relevant ammonium nitrate mixtures which is, or is liable to be, present.”.

(9) After paragraph 5 of Part I of Schedule 2, add—

“6. The date on which it is anticipated that a total quantity of 150 tonnes or more of relevant ammonium nitrate mixtures will be present, or if they are already present, a statement to that effect.”.

(10) In the heading of Part II of Schedule 2, after “4(2)” add “AND (5)”.

(11) In paragraph 1 of Part II of Schedule 2, after “substances” insert “or relevant ammonium nitrate mixtures”.

(12) For paragraph 2 of Part II of Schedule 2, substitute—

“2. The reduction of the total quantity of dangerous substances present to below 25 tonnes, other than a temporary reduction, or the reduction of the total quantity of relevant ammonium nitrate mixtures to below 150 tonnes, other than a temporary reduction.”.

Consequential amendments to the Workplace (Health, Safety and Welfare) Regulations (Northern Ireland) 1993

4.—(1) The Workplace (Health, Safety and Welfare) Regulations (Northern Ireland) 1993(a) shall be amended as follows.

(2) For regulation 3(1)(a), substitute—

“(a) a workplace which is or is in or on a ship, save that regulations 8(1) and (3) and 12(1) and (3) apply to such a workplace where the work involves any of the relevant operations in—

(i) a shipyard, whether or not the shipyard forms part of a harbour or wet dock;
or

(ii) dock premises, not being work done —

(aa) by the master or crew of a ship;

(bb) on board a ship during a trial run;

(cc) for the purpose of raising or removing a ship which is sunk or stranded;
or

(dd) on a ship which is not under command, for the purpose of bringing it under command.”.

(3) In regulation 3(1)(c), substitute—

“(c) a workplace located below ground at a mine.”

(4) Omit regulation 3(1)(d).

(5) After regulation 3(4), add—

“(5) As respects any workplace which is located at a quarry or above ground at a mine, regulation 12 shall only apply to a floor or traffic route which is located inside a building.”

(6) After regulation 3(5), add—

“(6) For the purposes of this regulation—

(a) “dock premises” means any dock, wharf, quay, jetty or other place at which ships load or unload goods or embark or disembark passengers, together with neighbouring land or water which is used or occupied, or intended to be used or

(a) S.R. 1993 No. 37 amended by S.R. 1995 No. 378 and S.R. 2007 No. 291; there are other amending instruments, but none is relevant

occupied, for those or incidental activities, and any part of a ship when used for those or incidental activities;

- (b) “relevant operations” means, in relation to a ship, its repairing, refitting, painting and finishing, the scaling, scurfing or cleaning of its boilers (including combustion chambers or smoke boxes) and the cleaning of its bilges or oil-fuel tanks or any of its tanks last used for carrying oil;
- (c) “ship” includes all vessels and hovercraft which operate on water or land and water;
- (d) “shipyard” means any yard or dry dock (including the precincts thereof) in which ships or vessels are constructed, reconstructed, repaired, refitted or finished; and
- (e) “vessel” means any description of craft used for the transport of goods or passengers or the storage of goods or the accommodation of passengers on water, whether used in navigation or not.”.

Consequential Amendments to the Work at Height Regulations (Northern Ireland) 2005

5.—(1) The Work at Height Regulations (Northern Ireland) 2005(a) shall be amended as follows.

(2) After regulation 8, insert—

“Dock Operations

8A. In relation to work at height where people are engaged in dock operations, every employer shall ensure that Schedule 10 is complied with.”.

(3) After Schedule 9, add—

“SCHEDULE 10

Regulation 8A

REQUIREMENTS FOR WORK IN DOCKS

1. In relation to work at height where people are engaged in dock operations, there shall be secure and adequate guardrails at the following places—

- (a) every break, dangerous corner and other dangerous part or edge of a dock, wharf, quay or jetty; and
- (b) every open side of a gangway, footway over a bridge, caisson or dock gate,

except in so far as the provision of such guardrails is impracticable because of the nature of the work carried out there and the work is in progress.

2. In this Schedule—

“dock gate” means any lock gate or other gate which can close off the entrance to the dock or part of the dock from the sea or other waterway but does not include any gate on land which controls access by vehicles or pedestrians;

“dock operations” means—

- (a) the loading or unloading of goods on or from a ship at dock premises;
- (b) the embarking or disembarking of passengers on or from a ship at dock premises;
- (c) any activity incidental to the activities in sub-paragraph (a) or (b) which takes place on dock premises, including any of the following—
 - (i) the fuelling and provisioning of a ship;

(a) S.R. 2005 No 279

- (ii) the mooring of a ship;
- (iii) the storing, sorting, inspecting, checking, weighing or handling of goods;
- (iv) the movement of goods, passengers or vehicles;
- (v) the use of welfare amenities in relation to the activities in sub-paragraph (a), (b) or (c)(i) to (iv);
- (vi) attending dock premises for the purposes of the activities in sub-paragraph (a), (b) or (c)(i) to (v); or
- (vii) the embarking or disembarking on or from a ship of its crew at dock premises,

but does not include—

- (d) the loading or unloading of goods or embarking or disembarking of persons on or from a pleasure craft or any activity incidental to those activities; or
- (e) beach landing operations wholly carried out by serving members of Her Majesty's Forces or visiting forces within the meaning of the provisions of Part 1 of the Visiting Forces Act 1952(a) or a combination of both;

“dock premises” means any dock, wharf, quay, jetty or other place at which ships load or unload goods or embark or disembark passengers, together with neighbouring land or water which is used or occupied, or intended to be used or occupied, for those or incidental activities, and any part of a ship when used for those or incidental activities;

“freight container” means a container as defined in regulation 2 of the Freight Containers (Safety Convention) Regulations (Northern Ireland) 1992(b);

“goods” includes—

- (a) animals;
- (b) pallets and freight containers;
- (c) waste;
- (d) solid ballast;
- (e) vehicles which are being transported as cargo;

“pleasure craft” means any description of vessel when used solely for sport or recreation, other than for carrying fare paying passengers;

“ship” includes all vessels and hovercraft which operate on water or land and water;

“vehicle” includes all lift trucks, locomotives and rolling stock, and trailers and semi-trailers and other mechanical plant which moves on wheels, tracks, skids or any combination thereof;

“vessel” means any description of craft used for the transport of goods or passengers or the storage of goods or the accommodation of passengers on water, whether used in navigation or not;

“welfare amenities” means—

- (a) sanitary conveniences;
- (b) baths and shower baths;
- (c) washing facilities;
- (d) a supply of wholesome drinking water;
- (e) a supply of protective clothing, that is to say, clothing suitable for the protection of the wearer in refrigerated spaces or against dirt from handling dirty goods or against inclement weather;

(a) 1952 c.67, to which there are amendments not relevant to these Regulations.

(b) S.R 1992 No. 2, to which there are amendments not relevant to these Regulations.

- (f) accommodation and facilities for changing into clothing worn during working hours and for storing and drying clothing;
- (g) canteens, or accommodation and facilities (including facilities for heating food and boiling water) for workers employed at dock premises to eat meals provided by themselves;
- (h) shelters for use during inclement weather.”.

Amendment to the Borehole Sites and Operations Regulations (Northern Ireland) 1995

6. In sub-paragraph (3)(a) of regulation 7 of the Borehole Sites and Operations Regulations (Northern Ireland) 1995(a) the words from “and revised” to the end of the sub-paragraph shall be deleted.

Amendment to the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999

7. In regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999(b), in the definition of “dock premises”, for the words “regulation 2(1) of the Docks Regulations (Northern Ireland) 1989” substitute “Schedule 10, paragraph 2 of the Work at Height Regulations (Northern Ireland) 2005”.

Amendments to the REACH Enforcement Regulations 2008

8.—(1) The REACH Enforcement Regulations 2008(c) shall be amended as follows.

(2) In Schedule 3, Part 1, paragraph 1(d)(ii) and o(ii) for the words “regulations 2(1) of the Docks Regulations (Northern Ireland) 1989” substitute “Schedule 10, paragraph 2 of the Work at Height Regulations (Northern Ireland) 2005”.

(3) In Schedule 3, Part 3, paragraph 2(b) for the words “the Control of Asbestos Regulations (Northern Ireland) 2007” substitute “the Control of Asbestos Regulations (Northern Ireland) 2012”.

Sealed with the Official Seal of the Department of Enterprise, Trade and Investment on 17th April 2015.



Jackie Kerr

A senior officer of the Department of Enterprise, Trade and Investment

(a) S.R. 1995 No. 491
(b) S.R. 1999 No. 90
(c) S.I. 2008/2852

SCHEDULE

Regulation 2

Table 1

Repeals

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Short Title</i>	<i>Chapter</i>	<i>Extent of repeal</i>
The Celluloid and Cinematograph Film Act 1922	c.35	The whole Act
The Factories Act (Northern Ireland) 1965	c.20	Section 40(2)

Table 2

Revocations

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Title</i>	<i>Reference</i>	<i>Extent of revocation</i>
The Factories (Gasholders – Record of Examinations) Order (Northern Ireland) 1939	1939 No. 65	The whole Order
Factories (Postponement of Certain Requirements) Order (Northern Ireland) 1939	1939 No. 74	The whole Order
The Reports of Appointed Factory Doctors Order (Northern Ireland) 1968	1968 No. 228	The whole Order
The Shipbuilding and Ship-repairing Regulations (Northern Ireland) 1971	1971 No. 372	The whole Regulations
The Gasholders and Steam Boilers Regulations (Metrication) Regulations (Northern Ireland) 1982	1982 No. 125	The whole Regulations
The Locomotives (Metrication) Regulations (Northern Ireland) 1983	1983 No. 287	The whole Regulations
Notification of Installations Handling Hazardous Substances Regulations (Northern Ireland) 1984	1984 No. 177	The whole Regulations
The Construction (Metrication) Regulations (Northern Ireland) 1989	1989 No. 300	The whole Regulations
The Docks Regulations (Northern Ireland) 1989	1989 No. 320	The whole Regulations
The Shipbuilding etc. (Metrication) Regulations (Northern Ireland) 1990	1990 No. 5	The whole Regulations
The Construction Plant and Equipment (Noise Emission)	1990 No. 102	The whole Regulations

Amendment) Regulations (Northern Ireland) 1990 The Construction (Head Protection) Regulations (Northern Ireland) 1990	1990 No. 424	The whole Regulations
The Docks (Amendment) Regulations (Northern Ireland) 1992	1992 No. 374	The whole Regulations
The Provision and Use of Work Equipment (Amendment) Regulations (Northern Ireland) 1995	1995 No. 26	The whole Regulations
The Construction Plant and Equipment (Noise Emission) (Amendment) Regulations (Northern Ireland) 1999	1999 No. 123	The whole Regulations
The Notification of Installations Handling Hazardous Substances (Amendment) Regulations (Northern Ireland) 2003	2003 No. 415	The whole Regulations

Table 3

Consequential Repeals

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Short title</i>	<i>Chapter</i>	<i>Extent of repeal</i>
The Petroleum (Consolidation) Act (Northern Ireland) 1929	c. 13	Section 24A(1)(b)
The Health and Safety at Work (Northern Ireland) Order 1978	No. 1039 (N.I. 9)	In Schedule 1 the entry relating to the Celluloid and Cinematograph Film Act 1922

Table 4

Consequential Revocations

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Title</i>	<i>Reference</i>	<i>Extent of revocation</i>
The Petroleum-Spirit (Motor Vehicles, etc) Regulations (Northern Ireland) 1930	1930 No. 11	Regulation 15A(b)
The Petroleum-Spirit (Plastic Containers) Regulations (Northern Ireland) 1983	1983 No. 43	Regulation 7(b)
The Dangerous Substances (Notification and Marking of Sites) Regulations (Northern Ireland) 1992	1992 No. 71	Paragraph 2(a) of Schedule 1
The Personal Protective Equipment at Work Regulations (Northern Ireland) 1993	1993 No. 20	Regulation 3(3)(f) and Paragraphs 2, 21, 22, 23 of Schedule 2
The Pipelines Safety Regulations (Northern Ireland)	1997 No. 193	Regulation 31(2) and Part II of Schedule 6

1997		
The Lifting Operations and Lifting Equipment Regulations (Northern Ireland) 1999	1999 No. 304	Regulations 9(7)(b), 13 and 14 and the entry relating to the Shipbuilding and Ship-repairing Regulations (Northern Ireland) 1971 in Schedule 3
The Provision and Use of Work Equipment Regulations (Northern Ireland) 1999	1999 No. 305	Regulation 12(5)(d)
The Work at Height Regulations (Northern Ireland) 2005	2005 No. 279	Regulation 3(4)(b)
The Factories Act (Northern Ireland) 1965 and Office and Shop Premises Act (Northern Ireland) 1966 (Repeals and Modifications) Regulations (Northern Ireland) 2011	2011 No. 283	Regulation 4(1)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make repeals, revocations and amendments relating to Health and Safety provisions using powers under the Health and Safety at Work (Northern Ireland) Order 1978 (“the 1978 Order”).

Much of the legislation that is being removed is old, and many of the working practices that it contains are covered by more recent legislation, including that which has been transposed from directives emanating from the European Union.

Regulation 2 introduces the Schedule. Tables 1 and 2 of the Schedule contain repeals and revocations respectively that were the subject of a consultation which was carried out in accordance with section 46(3) of the 1978 Order. Tables 3 and 4 of the Schedule contain the repeals and revocations respectively, which are amendments consequential to those in Tables 1 and 2.

The main repeal of primary legislation is of the Celluloid and Cinematograph Film Act 1922. The Act contained provision for the regulation of the storage of Raw Celluloid and Cinematographic film, substances which were manufactured in much greater quantity when the Act came into force.

As a consequence of the revocation of the Construction (Head Protection) Regulations (Northern Ireland) 1990 and regulation 3(3)(f) of the Personal Protective Equipment at Work Regulations (Northern Ireland) 1993, all of the provisions of the latter apply to the regulation of the wearing of suitable head protection by persons engaged in construction work.

Regulation 3 makes amendments to the Dangerous Substances (Notification and Marking of Sites) Regulations (Northern Ireland) 1992 (“the 1992 Regulations”) as a consequence of the revocation of the Notification of Installations Handling Hazardous Substances Regulations (Northern Ireland) 1984 as amended. The 1992 Regulations are amended to bring Ammonium Nitrate and mixtures containing Ammonium Nitrate where the nitrogen content exceeds 15.75% of the mixture by weight above a prescribed quantity within the ambit of the 1992 Regulations’ notification regime. The amendment to the 1992 Regulations requires that dutyholders notify the fire and rescue services where such substances are kept on their premises.

Regulation 4 makes amendments to the Workplace (Health, Safety and Welfare) Regulations (Northern Ireland) 1993 as a consequence of the revocation of the Shipbuilding and Ship-repairing Regulations (Northern Ireland) 1971 (“the 1971 Regulations”). The effect of two regulations from the 1971 Regulations is retained by the consequential amendment so that the requirement for

dutyholders to provide adequate lighting and safe access for workers on ships that are in a shipyard or harbour for the purposes of construction, repair or maintenance activities is preserved.

Regulation 5 makes amendments to the Work at Height Regulations (Northern Ireland) 2005 (“the 2005 Regulations”) as a consequence of the revocation of the Docks Regulations (Northern Ireland) 1989 (“the Docks Regulations”), such that special provision for people working at height while engaged in dock operations remains. As a consequence of the revocation of the Docks Regulations, regulation 3(4)(b) of the 2005 Regulations is also revoked.

Regulation 6 makes a technical amendment to the Borehole Sites and Operations Regulations (Northern Ireland) 1995.

Regulation 7 makes an amendment to the Health and Safety (Enforcing Authority) Regulations (Northern Ireland) 1999 consequent to the revocation of the Docks Regulations.

Regulation 8 makes amendments to the REACH Enforcement Regulations 2008 consequent to the Control of Asbestos Regulations (Northern Ireland) 2012 and the revocation of the Docks Regulations.

In Great Britain the corresponding legislation is the Health and Safety (Miscellaneous Repeals, Revocations and Amendments) Regulations 2013 (S.I. 2013/448) and the Health and Safety (Miscellaneous Revocations and Amendments) Regulations 2013 (S.I. 2013/1512). The Great Britain Health and Safety Executive has prepared a full impact assessment of the effect that the Regulations will have on business. A copy of that assessment is available from the Health and Safety Executive for Northern Ireland, 83 Ladas Drive, Belfast, BT6 9FR.

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