

STATUTORY INSTRUMENTS

S.I. No. 53 of 2003

SAFETY, HEALTH AND WELFARE AT WORK (GENERAL APPLICATION) (AMENDMENT NO. 2) REGULATIONS, 2003

(Pn 12845)

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SAFETY, HEALTH AND WELFARE AT WORK (GENERAL APPLICATION) (AMENDMENT No.2) REGULATIONS, 2003

I, Mary Harney, Minister for Enterprise, Trade and Employment, in exercise of the powers conferred on me by Section 28 of the Safety, Health and Welfare at Work Act 1989 (No. 7 of 1989) and the Labour (Transfer of Departmental Administration and Ministerial Functions) Order, 1993 (S.I. No. 18 of 1993), as adapted by the Enterprise and Employment (Alteration of Name of Department and Title of Minister) Order, 1997 (S.I. No. 305 of 1997), and the Enterprise, Trade and Employment (Delegation of Ministerial Functions) (No. 2) Order, 1997, (S.I. No. 330 of 1997), and after consultation with the National Authority for Occupational Safety and Health, and for the purpose of giving further effect to Council Directive No. 89/391/EEC¹ of 12th June, 1989 hereby make the following regulations:

1. (1) These Regulations may be cited as the Safety, Health and Welfare at Work (General Application) (Amendment No.2) Regulations, 2003.
- (2) These Regulations shall come into operation on the 30th day of January, 2003.
2. The Safety, Health and Welfare at Work (General Application) Regulations, 1993 (S.I. No. 44 of 1993) (as amended by the Safety, Health and Welfare at Work (General Application) (Amendment) Regulations, 2001 (S.I. No. 188 of 2001), are amended -
 - (a) by substituting the following for Regulation 5:

General Duties of Employer
5. (1) It shall be the duty of every employer to ensure that—
 - (a) in taking measures necessary for the safety and health protection of employees the measures take account of changing circumstances and the general principles specified in the First Schedule;
 - (b) the risks to the safety and health of employees (including

¹ [1989] OJ L 183/1

those related to the choice of work equipment, the use of any substance and the fitting out of a place of work) are periodically evaluated;

- (c) taking account of the most recent evaluation under paragraph (b) any necessary steps are taken to -
 - (i) ensure any improvement considered necessary in the level of protection afforded to employees in relation to safety and health, and
 - (ii) integrate the measures referred to in paragraph (a) into all the work activities under the control of the employer and at all levels of responsibility in the undertaking;
 - (d) for the duration of the assignment of any fixed-term employee or temporary employee working in his or her undertaking, working conditions are such as will protect the safety, health and welfare at work of such an employee; and
 - (e) where activities mentioned in Regulations 3 or 9 (2) are being carried out, the safety and health of his or her employees are protected as far as possible.
- (2) Nothing in the relevant statutory provisions shall operate so as to afford an employer a defence in any criminal proceedings for a contravention of those provisions by reason of any act or default of –
- (a) an employee of the employer's, or
 - (b) a competent person whose services he or she obtained for the purposes of ensuring the safety and health at work of his or her employees.”

- (b) by substituting the following for Regulation 8:

Protective and Preventive Services

8. (1) It shall be the duty of every employer -
- (a) to designate one or more employees to carry out activities specified by him or her which are related to the protection from and the prevention of occupational risk at the place of work;
 - (b) to ensure that any employee designated under paragraph (a) is not placed at any disadvantage in relation to his or her employment because of such activities and is allowed adequate time to enable him or her to fulfil any duties related to such activities;
 - (c) where paragraph (a) cannot be complied with for lack of competent personnel at the place of work, to obtain the services of a competent person mentioned in section 6 (2) (j) of the Act, provided that such

activities may also be carried on by a combination of employees designated under paragraph (a) and such competent persons working together whenever necessary;

- (d) to provide any persons engaged under paragraph (c) with information on-
 - (i) the factors known to affect, or suspected of affecting, the safety and health of his or her employees,
 - (ii) the safety and health risks and protective and preventive measures and activities in relation to the place of work, and
 - (iii) the measures for the evacuation of employees to be taken under Regulation 9 in emergencies, including the designation of employees to implement such measures;
 - (e) to inform employees designated under paragraph (a) and persons referred to under paragraph (c) to carry out activities related to the protection from and prevention of occupational risk at a place of work in relation to the assignment of any fixed-term employee or any temporary employee (or either of them) to the extent necessary to enable such activities to be competently carried out; and
 - (f) notwithstanding paragraphs (a) and (c) to ensure that –
 - (i) an employee designated under paragraph (a) is competent and has the necessary means to assist him or her, and
 - (ii) a person referred to in paragraph (c) is competent and has the necessary means to assist him or her.
- (2) For the purposes of the relevant statutory provisions, a person shall be deemed to be competent where, having regard to the task he or she is required to perform, and taking account of the size or hazards (or either of them) of the undertaking or establishment in which he or she undertakes work, he or she possesses sufficient training, experience and knowledge appropriate to the nature of the work to be undertaken.”
- and
- (c) in Regulation 9 (1) by the substitution of the following for subparagraphs (a) and (b) :
 - (a) to provide the necessary measures for fire fighting and the evacuation of employees, to be taken in emergencies, taking account of the nature

of the activities and the size of the place of work and taking into account other persons present;

(b) to arrange any necessary contacts with the appropriate emergency services in the event of emergencies and as regards first-aid, emergency medical care and fire fighting;” , and

(d) in Regulation 56 (1) by substituting the following for subparagraph (b):

(b) to designate at each place of work under his or her control such number of occupational first-aiders as is necessary to render first-aid at the place of work concerned and to ensure that the number of first-aiders, their training and the equipment available to them is adequate, taking account of the size or hazards (or both) of the undertaking or establishment.”

Given under my Official Seal

January, 2003.

Minister for Enterprise, Trade and Employment

EXPLANATORY NOTE

This note is not part of the instrument and does not purport to be a legal interpretation

The purpose of these Regulations is to amend certain provisions of the Safety, Health and Welfare at Work (General Application) Regulations, 1993 (S.I. No. 44 of 1993) (as amended by the Safety, Health and Welfare at Work (General Application) (Amendment) Regulations 2001 (S.I. No. 188 of 2001)).

The Regulations strengthen the existing provisions covering the general duties of the employer, amend the provisions dealing with protective and preventive services concerning competency and introduce requirements for the provision of measures relating to fire-fighting.

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