Draft Regulations laid before Parliament under section 82(3B) of the Health and Safety at Work etc. Act 1974 for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2015 No. 000

HEALTH AND SAFETY

The Health and Safety at Work etc. Act 1974 (General Duties of Self-Employed Persons) (Prescribed Undertakings) Regulations 2015

Made - - - -	*2015*
Coming into force - -	*1st October 2015*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 3(2) and (2A), 53(1) and 82(3)(a) of the Health and Safety at Work etc. Act 1974 ("the 1974 Act")(**a**).

These Regulations give effect without modification to proposals submitted to the Secretary of State by the Health and Safety Executive under section 11(3) of the 1974 Act(**b**).

Before submitting those proposals to the Secretary of State, the Health and Safety Executive consulted the Office for Nuclear Regulation and such other bodies that appeared to it to be appropriate as required by section 50(3) of the 1974 Act(**c**).

A draft of these Regulations has been laid before and approved by resolution of each House of Parliament in accordance with section 82(3B) of the 1974 Act(**d**).

Citation and commencement

1.—(1) These Regulations may be cited as the Health and Safety at Work etc. Act 1974 (General Duties of Self-Employed Persons) (Prescribed Undertakings) Regulations 2015.

(2) These Regulations come into force on 1st October 2015.

(**a**) 1974 c.37; section 3(2) was amended, and section 3(2A) was inserted, by section 1 of the Deregulation Act 2015 (c.20). Section 53(1) defines "prescribed" for the purposes of Part 1 of the 1974 Act.

(**b**) Section 11 was substituted by S.I. 2008/960, and amended by paragraph 2 of Schedule 12 to the Energy Act 2013 (c.32) and section 1 of the Deregulation Act 2015.

(**c**) Section 50(3) was amended by paragraph 16(3) of Schedule 15 to the Employment Protection Act 1975 (c.71); it was further amended by paragraph 6 of Schedule 7 to the Health and Social Care Act 2012 (c.7), paragraph 11 of Schedule 12 to the Energy Act 2013 and S.I. 2008/960.

(**d**) Section 82(3B) was inserted by section 1 of the Deregulation Act 2015.

Prescribed descriptions of undertakings

2. An undertaking is of a prescribed description for the purposes of section 3(2) of the Health and Safety at Work etc. Act 1974 if it involves the carrying out of any activity which—

(a) is listed in the Schedule; or

(b) where not listed in the Schedule, may pose a risk to the health and safety of another person (other than the self-employed person carrying it out or their employees).

Review

3.—(1) Before the end of each review period, the Secretary of State must—

(a) carry out a review of these Regulations;

(b) set out the conclusions of the review in a report; and

(c) publish the report.

(2) The report must in particular—

(a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;

(b) assess the extent to which those objectives are achieved; and

(c) assess whether those objectives remain appropriate, and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) "Review period" means the period of five years beginning with the day on which these Regulations come into force.

Signed by authority of the Secretary of State for Work and Pensions

Name
Parliamentary Under Secretary of State,
Department for Work and Pensions

SCHEDULE

Regulation 2

ACTIVITIES

Agriculture (including forestry)

1. Any work which is an agricultural activity (which is to be read in accordance with regulation 2(1) of the Health and Safety (Enforcing Authority) Regulations 1998(**a**)).

Asbestos

2.—(1) Any work with asbestos.

(2) Any work which—

(a) involves a sampling activity; but

(b) is not work with asbestos.

(**a**) S.I. 1998/494.

(3) Any activity carried out by a dutyholder under regulation 4 of the Control of Asbestos Regulations 2012(**a**) (the "2012 Regulations") (duty to manage asbestos in non-domestic premises).

(4) In this paragraph—

(a) "asbestos" has the meaning given in regulation 2 of the 2012 Regulations;

(b) "dutyholder" has the meaning given in regulation 4(1) of the 2012 Regulations;

(c) "sampling activity" means—

(i) air monitoring;

(ii) the collection of air samples; or

(iii) the analysis of air samples,

to ascertain whether asbestos fibres are present in the air, or to measure the concentration of such fibres; and

(d) "work with asbestos" is to be read in accordance with regulation 2(2) of the 2012 Regulations.

Construction

3.—(1) Any work which is carried out on a construction site.

(2) Any work in relation to a project carried out by a designer, a client, a contractor, a principal contractor or a principal designer which gives rise to a duty under the Construction (Design and Management) Regulations 2015(**b**) ("the 2015 Regulations").

(3) In this paragraph—

(a) "client", "contractor", "designer", "principal contractor", "principal designer" and "project" have the meanings given in regulation 2(1) of the 2015 Regulations; and

(b) "construction site" is to be read in accordance with that regulation.

Gas

4. Any activity to which the Gas Safety (Installation and Use) Regulations 1998(**c**) apply.

Genetically modified organisms

5. Contained use within the meaning of regulation 2(1) of the Genetically Modified Organisms (Contained Use) Regulations 2014(**d**).

Railways

6. The operation of a railway (which is to be read in accordance with regulation 2 of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006(**e**)).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations specify the circumstances in which self-employed persons will be required to comply with their duty under section 3(2) of the Health and Safety at Work etc. Act 1974 ("the

(**a**) S.I. 2012/632.
(**b**) S.I. 2015/51.
(**c**) S.I. 1998/2451.
(**d**) S.I. 2014/1663.
(**e**) S.I. 2006/557.

1974 Act") to conduct their undertakings in such a way as to ensure, so far as reasonably practicable, that they themselves and other persons (not being their employees) who may be affected by their work activities are not exposed to risks to their health and safety. Every self-employed person continues to hold a duty in respect of their employees under section 2 of the 1974 Act.

Regulation 2 identifies which undertakings are of a prescribed description for the purposes of section 3(2) of the 1974 Act. Regulation 2(a) introduces the Schedule, which prescribes an undertaking if it involves the carrying out of one or more of the activities specified. If an undertaking is not prescribed in the Schedule, regulation 2(b) also prescribes those undertakings which involve any activity that poses risks to the health and safety of another person, other than the person conducting it or their employees.

Regulation 3 requires the Secretary of State to review the operation and effect of these Regulations and publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke these Regulations or to amend them.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Health and Safety Executive, Redgrave Court, Merton Road, Merseyside, L20 7HS and is available in the libraries of both Houses of Parliament, and is annexed to the Explanatory Memorandum which is available alongside the instrument on www.legislation.gov.uk.

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