



STATUTORY INSTRUMENTS.

S.I. No. 370 of 2016



SAFETY, HEALTH AND WELFARE AT WORK (GENERAL
APPLICATION) (AMENDMENT) (NO. 3) REGULATIONS 2016

SAFETY, HEALTH AND WELFARE AT WORK (GENERAL APPLICATION) (AMENDMENT) (NO. 3) REGULATIONS 2016

I, PAT BREEN, Minister of State at the Department of Jobs, Enterprise and Innovation, in exercise of the powers conferred on me by section 58 of the Safety, Health and Welfare at Work Act 2005 (No. 10 of 2005) as adapted by the Enterprise, Trade and Innovation (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 245 of 2011) and the Jobs, Enterprise and Innovation (Delegation of Ministerial Functions) Order 2016 (S.I. No. 333 of 2016) after consultation with the Health and Safety Authority, hereby make the following regulations:

1. These Regulations may be cited as the Safety, Health and Welfare at Work (General Application) (Amendment) (No. 3) Regulations 2016.

2. These Regulations shall come into operation on 1 November 2016.

3. These Regulations shall be included in the collective citation the Safety, Health and Welfare at Work (General Application) Regulations 2007 to 2016.

4. In these Regulations “Principal Regulations” means the Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299 of 2007).

5. (1) Subject to paragraph (2), the Safety, Health and Welfare at Work (General Application) Regulations 1993 (S.I. No. 44 of 1993), in so far as they are still in operation, are revoked.

(2) Notwithstanding paragraph (1), Part X of, and the Twelfth Schedule to, the Safety, Health and Welfare at Work (General Application) Regulations 1993 continue to apply in respect of accidents and dangerous occurrences which occurred before 1 November 2016.

6. The Principal Regulations are amended—

(a) by inserting in the “Arrangement of Regulations”, after “PART 13 ABRASIVE BLASTING OF SURFACES”, the following:

“PART 14

REPORTING OF ACCIDENTS AND DANGEROUS OCCURRENCES

224. Interpretation for Part 14.

225. Reporting of accidents and dangerous occurrences.

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 15th July, 2016.

- 226. Keeping of records.
- 227. Application of Part 14.
- 228. Defence in proceedings.
- 229. Examinations and tests.”,

(b) by inserting in the “Arrangement of Regulations”, after “Schedule 14, TRAINING AND INSTRUCTION”, the following:

“SCHEDULE 15
DANGEROUS OCCURRENCES”,

(c) by inserting the following new Part after Regulation 223:

“PART 14
REPORTING OF ACCIDENTS AND DANGEROUS
OCCURRENCES

Interpretation for Part 14

224. (1) In this Part—

“dangerous occurrence” means an occurrence listed in Schedule 15 which occurs at any place of work other than at a mine within the meaning of the Mines and Quarries Act 1965 (No. 7 of 1965);

“personal injury” does not include any disease, occupational illness or any impairment of mental condition;

“pipeline” has the same meaning as it has in Part 10;

“relevant fluid” has the same meaning as it has in Part 10;

“responsible person” means—

- (a) in the case of any event required to be reported under Regulation 225 involving an employee at work, his or her employer;
- (b) in any other case, except where paragraph (c) applies, the person having control of a place of work for the purpose of any trade, business or undertaking (whether for profit or not) at which the accident or dangerous occurrence required to be reported under Regulation 225 occurs; and
- (c) where a self-employed person is fatally injured at a place of work, the person who owns the place of work or, in the case of a tenancy existing in respect of the place of work, the

tenant except where the fatally injured person is the owner or tenant.

(2) In this Part, a reference to an accident or a dangerous occurrence arising at or in connection with work includes a reference to an accident or dangerous occurrence which is attributable to the manner of conducting the undertaking concerned or to any article or substance used for the purposes of the undertaking concerned or to the condition of any part of the place of work where the undertaking concerned is carried on.

Reporting of Accidents and Dangerous Occurrences

225. (1) Where—

- (a) an employee dies as a result of an accident at their place of work or in the course of carrying out their work in a location other than their normal place of work,
- (b) an employee, as a result of an accident at their place of work or in the course of carrying out their work in a location other than their normal place of work, is prevented from performing their normal work for more than 3 consecutive days, excluding the day of the accident but including any days which would not have been working days,
- (c) an employee dies within one year as a result of an accident at their place of work or in the course of carrying out their work in a location other than their normal place of work,
- (d) any person who is not at work but who as a result of an accident related to a place of work or a work activity dies, within one year of the accident,
- (e) any person who is not at work but who as a result of an accident related to a place of work or a work activity suffers any injury or condition which, due to the nature or severity of the injury or condition, results in the person being taken from the location of the accident to receive treatment in respect of that injury in a hospital or medical facility, or
- (f) there is a dangerous occurrence,

the responsible person shall—

- (i) in the case of a death, as soon as possible after the death comes to his or her knowledge, supply the Authority by the quickest practicable means with the name of the deceased, brief particulars and the location of the accident and, within 5 working days of the death, send a written report to the Authority in the approved form, or

- (ii) in the case of a non-fatal injury, or a dangerous occurrence, as soon as reasonably practicable and not later than 10 working days after the event, send a written report to the Authority in the approved form.

(2) In the case where a responsible person is a self-employed person, it shall be sufficient compliance with paragraph (1) if the self-employed person makes arrangements with some other person for that person to make the notification or report required by that paragraph on behalf of the self-employed person.

- (3) (a) Where an accident which is reportable under paragraph (1) occurs and causes loss of life to a person, no person shall disturb the place where it occurred or tamper with anything at that place before—

- (i) that place has been inspected by an inspector, or

- (ii) the expiration of 3 clear days after reporting in accordance with paragraph (1) of the accident.

- (b) Nothing in this Regulation shall prohibit the doing of anything by or with the consent of an inspector, or anything required to be done in compliance with any other statutory provision.

- (c) In any proceedings taken in respect of a contravention of this paragraph consisting of the doing of any act, it shall be a defence to prove that the doing of the act was necessary for securing the safety or health of any person.

Keeping of Records

226. (1) The responsible person shall keep a record of any accident or dangerous occurrence which is required to be reported under Regulation 225 to the Authority, for a period of 10 years from the date of the accident or dangerous occurrence.

(2) A record required to be kept under this Regulation shall contain the same information as in the approved form referred to in Regulation 225(1).

(3) A record required to be kept under this Regulation shall be kept at the place where the work to which it relates is carried on or, if this is not practicable, at the usual place of business of the responsible person.

(4) Where an employer is required by or under statute (other than the Act) to keep a record of injuries or deaths at work, such a record shall be sufficient compliance with paragraph (1) if it contains the particulars specified in paragraph (2).

(5) Where the Authority requests a responsible person to send it extracts from a record required to be kept by this Regulation, the responsible person shall comply with such a request as soon as possible.

Application of Part 14

227. (1) Regulation 225 does not apply in a case where a person dies or is injured or suffers ill health and such person is a patient undergoing medical treatment carried out by a registered medical practitioner or a registered dentist when the death, injury or ill health occurs and the person is not undergoing treatment for an accident which occurred at a place of work or an injury due to a dangerous occurrence, unless the cause of death or injury is unrelated to the patient's pre-existing medical condition or the treatment being provided.

(2) This Part does not apply to an accident which occurs at a place of work or as a result of a work activity in relation to which a person suffers any disease, occupational illness or any impairment of mental condition.

Defence in Proceedings

228. It shall be a defence in any proceedings against any person for an offence under this Part for such person to prove that he or she was not aware of the accident or dangerous occurrence in relation to which he or she was required by Regulation 225 to send a written report to the Authority and that he or she had taken all reasonable steps to have such accident or dangerous occurrence brought to his or her notice.

Examinations and Tests

229. (1) Where there is an accident or a dangerous occurrence at a place of work and the Authority is satisfied that the accident or occurrence may have been caused (whether wholly or partly) by any article, if the Authority considers it necessary for the proper investigation of the accident or occurrence, it may, by a notice in writing, require the employer, self-employed person or the owner of the article concerned—

- (a) to have such article, or in a case where the accident or occurrence is believed to have been so caused by a part thereof, that part, examined and tested forthwith by a competent person,
- (b) to have a report of the results of the examination and test prepared and submitted to the employer, self-employed person or such owner, as may be appropriate, by the person by whom the examination and test was carried out, as soon as may be and in any case not later than 28 days after the completion of the examination and test, and

(c) to give to the Authority a copy of such report within 7 days of its receipt in pursuance of subparagraph (b).

(2) A report required under paragraph (1) shall include particulars of—

(a) the manner in which the relevant examination was carried out,

(b) the method used when making tests,

(c) any defect which in the opinion of the person carrying out the examination could account for or contribute to any failure in the article examined, and

(d) such other matter as the Authority may specify when making the requirement.

(3) Where the Authority is not satisfied as to the adequacy of a report under this Regulation, or as to the competence of a person employed to make an examination and test referred to in this Regulation or as to the adequacy of such an examination and test, it may require the employer, self-employed person or owner of the article concerned to have it re-examined and tested at the expense of such employer, self-employed person or owner by a person nominated by the Authority, and where the Authority makes a requirement under this paragraph, such employer, self-employed person or owner shall give any necessary facilities for such re-examination and test.

(4) In any proceedings for an offence under this Regulation it shall be a good defence for the accused to prove that he or she used all due diligence to comply with the requirements of the relevant notice.”, and

(d) by inserting the following Schedule after Schedule 14:

“Schedule 15

Regulation 225

Dangerous Occurrences

Vehicles, lifting and mobile machinery, etc.

1. (1) The collapse of, the overturning of, or the failure of any load-bearing part of—

(a) any lift or lifting equipment,

(b) any excavator, or

(c) any pile-driving frame or pile-driving machine having an overall height, when operating, of more than 7 metres.

(2) The overturning of any vehicle or 'ride-on' mobile work equipment or its trailer or semi-trailer towing equipment.

(3) The load shift or loss of load from—

- (a) any vehicle,
- (b) any mobile machine,
- (c) any trailer, or
- (d) any semi-trailer,

causing a risk of personal injury to a person at work.

Pressure vessels

2. The explosion, collapse or bursting of any closed vessel, including a boiler or boiler tube, in which the internal pressure was above or below atmospheric pressure.

Explosion or fire

3. (1) An unintentional explosion occurring in any plant or place of work.

(2) A fire occurring in any plant or place of work which resulted in the stoppage of that plant or suspension of normal work in that place of work for more than 24 hours.

Escape of flammable substances

4. The sudden uncontrolled release of one tonne or more of highly flammable liquid, liquified flammable gas, flammable gas or flammable liquid above its boiling point from any system, plant or pipeline.

Collapse of scaffolding

5. The collapse or partial collapse of any scaffold more than 5 metres high, including, where the scaffold is slung or suspended a collapse or part collapse of the suspension arrangements (including an outrigger) which causes a working platform or cradle to fall more than 5 metres.

Collapse of building or structure

6. Any unintended collapse or partial collapse of—

- (a) any building or structure under construction, reconstruction, alteration or demolition, or of any falsework, involving a fall of more than 5 tonnes of material, or
- (b) any building being used as a place of work, not being a building under construction, reconstruction, alteration or demolition.

Escape of a substance

7. The uncontrolled or accidental release or the escape of any substance, which, having regard to the nature of the substance and the extent and location of the release or escape might have been liable to cause personal injury to any person.

Explosives

8. Any unintentional ignition or explosion of explosives.

Freight containers

9. (1) The failure of any container or of any load-bearing part thereof while it is being raised, lowered or suspended.

(2) In this paragraph—

“container” means an article of transport equipment which is—

- (a) of a permanent character and accordingly strong enough for repeated use,
- (b) designed to facilitate the transport of goods by one or more modes of transport without intermediate reloading,
- (c) designed to be secured or readily handled or both, having corner fittings for these purposes, and
- (d) of a size such that the area enclosed by the outer bottom corners is either
 - (i) if the container is fitted with top corner fittings, at least 7 square metres, or
 - (ii) in any case at least 14 square metres

and includes a container when carried on a chassis but does not include a vehicle or packaging or any article of transport equipment designed solely for use in air transport, or a swap body except when it is carried by or on board a sea-going ship and is not mounted on a road vehicle or rail wagon.

“corner fittings” means an arrangement of apertures and faces at either the top or the bottom or both at the top and the bottom of the container for the purposes of handling, stacking and securing or any of those purposes.

Pipelines

10. In relation to a pipeline, the bursting, explosion or collapse of a pipeline or any part thereof.

Breathing apparatus

11. Any incident where breathing apparatus while being used to enable the wearer to breathe independently of the surrounding environment malfunctions in such a way as to be likely either to deprive the wearer of oxygen or, in the case of use in a contaminated atmosphere, to expose the wearer to the contaminant to the extent in either case of posing a danger to his health, but excluding such apparatus while it is being used in a mine or is being maintained or tested.

Overhead electric lines

12. Any incident in which plant or equipment, including any other overhead line, either comes into contact with an overhead electric line in which the voltage exceeds 200 volts or causes an electrical discharge from such an electric line or cable by coming into close proximity to it, unless in either case the incident was intentional, arising from or in connection with work activities, or any incident involving a live conductor accidentally falling due to breakage or otherwise.

Locomotives

13. Any accidental collision between a locomotive or a train and any other vehicle at a factory or at dock premises.

Bursting of vessel, etc.

14. The bursting of a revolving vessel, wheel, grindstone, or grinding wheel moved by mechanical power.

Wind Turbines

15. (1) The collapse or partial collapse of a wind turbine tower.

(2) The failure of one or more blades attached to a wind turbine, resulting in that blade or blades, or part of that blade or blades, becoming separated from the wind turbine.

(3) In this paragraph—

“wind turbine” means equipment, with a minimum hub height of 20 metres, that converts the kinetic energy of wind into another form of energy, which is then used for electricity generation;

“wind turbine blade” means the elements of a wind turbine used to extract the kinetic energy of wind and convert this to rotational energy of a shaft;

“wind turbine tower” means that part of a wind turbine that supports the nacelle, rotor and blades.”.

GIVEN under my hand,
12 July 2016.

PAT BREEN,
Minister of State at the Department of Jobs, Enterprise and
Innovation.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations amend the Safety, Health and Welfare at Work (General Application) Regulations 2007 (S.I. No. 299 of 2007) as previously amended by the Safety, Health and Welfare at Work (General Application) (Amendment) Regulations 2007 (S.I. No. 732 of 2007), the Safety, Health and Welfare at Work (General Application)(Amendment) Regulations 2010 (S.I. No. 176 of 2010), the Safety, Health and Welfare at Work (General Application)(Amendment) Regulations 2012 (S.I. No. 445 of 2012), the Safety, Health and Welfare at Work (General Application)(Amendment) Regulations 2016 (S.I. No. 36 of 2016) and the Safety, Health and Welfare at Work (General Application)(Amendment) (No. 2) Regulations 2016 (S.I. No. 70 of 2016) by inserting a new Part 14 (Reporting of Accidents and Dangerous Occurrences) as well as inserting Schedule 15 (Dangerous Occurrences) to the Regulations. The collective Regulations shall be cited together as the Safety, Health and Welfare at Work (General Application) Regulations 2007 to 2016.

The purpose of the Regulations is to revoke and replace Part X, Regulations 58, 59, 60, 61, 62, 63 and the Twelfth Schedule (Notification of Accidents and Dangerous Occurrences) of the Safety, Health and Welfare at Work (General Application) Regulations 1993 which were made under the Safety, Health and Welfare at Work Act 1989, and bring the reporting of accidents and dangerous occurrences in line with the provisions of the Safety, Health and Welfare at Work Act 2005.

The Regulations contain a number of updates and amendments including:

- changes to the requirements for reporting injuries involving members of the public, with the requirement now limited to only those injuries which result in the person being taken from the site of the accident to a hospital for treatment for that injury;
- removal of the requirement for a family member to report a fatal accident involving a self-employed person;
- specified timelines for making reports to the Health and Safety Authority, requiring fatal injuries to be reported within five days and non-fatal injuries to be reported within ten days of the incident;
- clarification on incidents related to medical treatment or pre-existing medical conditions that are not reportable to the Authority.

The revocation and replacement of Part X, Regulations 58, 59, 60, 61, 62, 63 and the Twelfth Schedule (Notification of Accidents and Dangerous Occurrences) of the Safety, Health and Welfare at Work (General Application) Regulations 1993 (S.I. No. 44 of 1993) represents the removal of the last provision of those Regulations.

These Regulations shall come into force from 1 November 2016.

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DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2.
(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)
or through any bookseller.

€3.81



Wt. (B32157). 305. 7/16. Essentra. Gr 30-15.