

2022 No. 8

HEALTH AND SAFETY

**The Personal Protective Equipment at Work (Amendment)
Regulations 2022**

<i>Made</i>	- - - -	<i>5th January 2022</i>
<i>Laid before Parliament</i>		<i>10th January 2022</i>
<i>Coming into force</i>		<i>6th April 2022</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 15(1), (2), (3)(b), and (9), 52(2) and (3) of, and paragraphs 11 and 14 of Schedule 3 to the Health and Safety at Work etc. Act 1974 (“the 1974 Act”)(a).

These Regulations give effect without modifications 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 such bodies that appeared to be appropriate as required by section 50(3) of the 1974 Act(c).

Citation and commencement

1. These Regulations may be cited as the Personal Protective Equipment at Work (Amendment) Regulations 2022 and come into force on 6th April 2022.

The Personal Protective Equipment at Work Regulations 1992

2. The Personal Protective Equipment at Work Regulations 1992 are amended in accordance with regulations 3 to 7.

Amendment to regulation 2 (interpretation)

3. For regulation 2(1), substitute—

“(1) In these Regulations—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“employer”, in relation to a worker, means the person by whom the worker is employed under their worker’s contract;

(a) 1974 c.37. Section 15(1) was substituted by paragraph 6 of Schedule 15 to the Employment Protection Act 1975 (c. 71) and amended by S.I. 2002/794. Section 15(2) was amended by paragraph 5 of Schedule 12 to the Energy Act 2013 (c. 32). Section 52(3) was substituted by paragraph 17 of Schedule 15 to the Employment Protection Act 1975 (c. 71) and amended by S.I. 2002/794.

(b) Section 11(3) was substituted by article 5 of S.I. 2008/960.

(c) Section 50(3) was amended by paragraph 16 of Schedule 15 to the Employment Protection Act 1975 (c.71), articles 3 and 16 of S.I. 2008/960, paragraphs 4 and 6 of Schedule 7 to the Health and Social Care Act 2012 (c.7), and paragraphs 1 and 11 of Schedule 12 to the Energy Act 2013 (c. 32).

“personal protective equipment”, unless the context requires otherwise, means all equipment (including clothing affording protection against the weather) which is intended to be worn or held by a person at work and which protects the person against one or more risks to that person’s health and safety, and any addition or accessory designed to meet that objective;

“relevant self-employed person” means a self-employed person (except a worker) who conducts an undertaking of a prescribed description for the purposes of section 3(2) of the 1974 Act;

“worker” means an individual who has entered into or works under—

- (a) a contract of employment;
- (b) any contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual;

and any reference to a worker’s contract shall be construed accordingly.”.

Amendment to regulation 3 (disapplication of the Personal Protective Equipment at Work Regulations 1992)

4. In regulation 3(3)—

- (a) in sub-paragraph (a) for “the Control of Lead at Work Regulations 1980” substitute “the Control of Lead at Work Regulations 2002(a)”;
- (b) in sub-paragraph (d) for “the Control of Substances Hazardous to Health Regulations 1988” substitute “the Control of Substances Hazardous to Health Regulations 2002(b)”.

New regulation 3A (modification of the 1974 Act)

5. After regulation 3, insert—

“Modification of the 1974 Act

3A.—(1) The duty placed on the employer in respect of their employees by section 9 of the 1974 Act (duty not to charge employees) is modified to apply in respect of the duties under these Regulations to their workers, and “employer”, as referenced in section 9, in relation to a worker means the person by whom the worker is employed under their worker’s contract.

(2) In these Regulations, section 52 of the 1974 Act (meaning of “work” and related expressions) is extended as follows—

- (a) “work” includes work as a worker;
- (b) a worker is at work throughout the time when they are working under their worker’s contract, but not otherwise.”.

Amendment to regulations 4 to 11

6. In regulations 4 to 11, in each place it occurs—

- (a) for “an employee” substitute “a worker”;
- (b) for “every employee” substitute “every worker”;
- (c) for “he intends” substitute “they intend”;

(a) S.I. 2002/2676.

(b) S.I. 2002/2677.

- (d) for “he is” substitute “they are”;
- (e) for “he may” substitute “they may”;
- (f) for “he shall” substitute “they shall”;
- (g) for “him” substitute “them”;
- (h) for “his employee” substitute “their worker”;
- (i) for “his employees” substitute “their workers”;
- (j) for “his employer” substitute “their employer”;
- (k) for “his health” substitute “their health”;
- (l) for “the employee” substitute “the worker”;
- (m) for “to employees” substitute “to workers”.

Amendment to regulation 13

7. In regulation 13—

- (a) in the first place it occurs, for “Health and Safety at Work etc. Act 1974” substitute “the 1974 Act”;
- (b) for “Health and Safety at Work etc. Act 1974 (Application Outside Great Britain) Order 1989” substitute “Health and Safety at Work etc. Act 1974 (Application Outside Great Britain) Order 2013(a)”.

Review of these Regulations

8.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations; and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 6th April 2027.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(b) requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph 1(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate;
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this regulation, “regulatory provision” has the same meaning as in sections 28 and 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

5th January 2022

Chloe Smith
Minister of State
Department for Work and Pensions

(a) S.I. 2013/240.
(b) 2015 c. 26.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Personal Protective Equipment at Work Regulations 1992 (“PPER 1992”) to extend the duties contained in regulations 4 to 11 of the PPER 1992 from employees to workers, and to update cross-references to other legislation.

Regulation 3 of these Regulations substitutes a new interpretation provision, including a new definition of worker.

Regulation 4 makes amendments to update references to legislation referred to in regulation 4 of the PPER 1992.

Regulation 5 inserts a new regulation 3A into the PPER 1992. Regulation 3A modifies the duty contained in section 9 of the Health and Safety at Work etc. Act 1974 (“HSWA”) for employers not to charge employees for things done in pursuance of a relevant statutory provision, to apply that duty to workers for the purposes of the PPER 1992. Further, regulation 3A extends the meaning of “work” and related expressions in section 52 of HSWA for the purpose of the PPE at Work Regulations to apply the meaning to workers.

Regulation 6 makes textual amendments to ensure all duties contained in the PPER 1992 apply to an employer of a worker and a worker.

Regulation 7 updates the reference to the Health and Safety at Work etc. Act 1974 (Application Outside Great Britain) Order contained in regulation 13 of the PPER 1992.

Regulation 8 of these Regulations imposes a requirement on the Secretary of State to undertake a review of these Regulations at least every 5 years from these Regulations coming into force as required by section 28 of the Small Business, Enterprise and Employment Act 2015.

A full impact assessment of the effect of these Regulations on the costs to business is available from the Health and Safety Executive, HSE PPE Policy team, Redgrave Court, Merton Road, Bootle, Merseyside, L20 7HS and is published alongside the Explanatory Memorandum on legislation.gov.uk.

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