

STATUTORY INSTRUMENTS

1997 No. 1713

HEALTH AND SAFETY

The Confined Spaces Regulations 1997

Made

17th July 1997

Laid before Parliament

28th July 1997

Coming into force

28th January 1998

The Secretary of State, in exercise of the powers conferred on him by sections 15(1), (2), (3)(a), (5)(a) and (b), (6)(a) and (b), (8) and (9) and 82(3)(a) of, and paragraphs 1(1) and (2), 9, 11 and 18(a) of Schedule 3 to, the Health and Safety at Work etc. Act 1974⁽¹⁾ (“the 1974 Act”) and of all other powers enabling him in that behalf and for the purpose of giving effect without modification to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the 1974 Act after the carrying out by the said Commission of consultation in accordance with section 50(3) of that Act, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Confined Spaces Regulations 1997 and shall come into force on 28th January 1998.

(2) In these Regulations, unless the context otherwise requires—

“confined space” means any place, including any chamber, tank, vat, silo, pit, trench, pipe, sewer, flue, well or other similar space in which, by virtue of its enclosed nature, there arises a reasonably foreseeable specified risk;

“diving operation” has the meaning assigned thereto by regulation 2(1) of the Diving Operations at Work Regulations 1981⁽²⁾;

“free flowing solid” means any substance consisting of solid particles and which is of, or is capable of being in, a flowing or running consistency, and includes flour, grain, sugar, sand or other similar material;

“mine” has the meaning assigned thereto by section 180 of the Mines and Quarries Act 1954⁽³⁾;

“specified risk” means a risk of—

(a)
serious injury to any person at work arising from a fire or explosion;

(b)
without prejudice to paragraph (a)—

(i)
the loss of consciousness of any person at work arising from an increase in body temperature;

(ii)
the loss of consciousness or asphyxiation of any person at work arising from gas, fume, vapour or the lack of oxygen;

(c)
the drowning of any person at work arising from an increase in the level of a liquid; or

(d)
the asphyxiation of any person at work arising from a free flowing solid or the inability to reach a respirable environment due to entrapment by a free flowing solid;

“system of work” includes the provision of suitable equipment which is in good working order.

Disapplication of Regulations

2. These Regulations shall not apply to or in relation to—

(a) the master or crew of a sea-going ship or to the employer of such persons in respect of the normal ship-board activities carried out solely by a ship’s crew under the direction of the master; or

(b) any place below ground in a mine; or

(c) any diving operation to and in relation to which the Diving Operations at Work Regulations 1981 apply by virtue of regulation 3 of those Regulations.

Duties

3.—(1) Every employer shall—

(a) ensure compliance with the provisions of these Regulations in respect of any work carried out by his employees; and

(b) ensure compliance, so far as is reasonably practicable, with the provisions of these Regulations in respect of any work carried out by persons other than his employees insofar as the provisions relate to matters which are within his control.

(2) Every self-employed person shall—

(a) comply with the provisions of these Regulations in respect of his own work; and

(b)ensure compliance, so far as is reasonably practicable, with the provisions of these Regulations in respect of any work carried out by other persons insofar as the provisions relate to matters which are within his control.

Work in confined spaces

4.—(1) No person at work shall enter a confined space to carry out work for any purpose unless it is not reasonably practicable to achieve that purpose without such entry.

(2) Without prejudice to paragraph (1) above, so far as is reasonably practicable, no person at work shall enter or carry out any work in or (other than as a result of an emergency) leave a confined space otherwise than in accordance with a system of work which, in relation to any relevant specified risks, renders that work safe and without risks to health.

Emergency arrangements

5.—(1) Without prejudice to regulation 4 of these Regulations, no person at work shall enter or carry out work in a confined space unless there have been prepared in respect of that confined space suitable and sufficient arrangements for the rescue of persons in the event of an emergency, whether or not arising out of a specified risk.

(2) Without prejudice to the generality of paragraph (1) above, the arrangements referred to in that paragraph shall not be suitable and sufficient unless—

(a)they reduce, so far as is reasonably practicable, the risks to the health and safety of any person required to put the arrangements for rescue into operation; and

(b)they require, where the need for resuscitation of any person is a likely consequence of a relevant specified risk, the provision and maintenance of such equipment as is necessary to enable resuscitation procedures to be carried out.

(3) Whenever there arises any circumstance to which the arrangements referred to in paragraph (1) above relate, those arrangements, or the relevant part or parts of those arrangements, shall immediately be put into operation.

Exemption certificates

6.—(1) Subject to paragraph (2) below, the Health and Safety Executive may, by a certificate in writing, exempt—

(a)any person or class of persons; or

(b)any type or class of confined space,

from the application of any of the requirements or prohibitions imposed by these Regulations, and any such exemption may be granted subject to conditions and to a

limit of time and may be revoked at any time by the said Executive by a further certificate in writing.

(2) The Executive shall not grant any such exemption unless, having regard to the circumstances of the case, and in particular to—

(a) the conditions, if any, which it proposes to attach to the exemption; and

(b) any other requirements imposed by or under any enactments which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

Defence in proceedings

7.—(1) In any proceedings for an offence for a contravention of regulation 5(3) of these Regulations it shall be a defence for the person charged to prove—

(a) that the contravention was due to the act or default of another person not being one of his employees (hereinafter called “the other person”); and

(b) that he took all reasonable precautions and exercised all due diligence to avoid the contravention.

(2) The person charged shall not, without leave of the court, be entitled to rely on the defence referred to in paragraph (1) above unless, within a period ending seven clear days—

(a) before the hearing to determine mode of trial, where the proceedings are in England or Wales; or

(b) before the trial, where the proceedings are in Scotland,

he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.

(3) Where a contravention of the provision referred to in paragraph (1) above by any person is due to the act or default of some other person, that other person shall be guilty of the offence which would, but for any defence under this regulation available to the first-mentioned person, be constituted by the act or default.

Extension outside Great Britain

8. These Regulations shall, subject to regulation 2 above, apply to and in relation to the premises and activities outside Great Britain to which sections 1 to 59 and 80 of the 1974 Act apply by virtue of paragraphs (a), (b), (d) and (e) of article 8 of the Health and Safety at Work etc. Act 1974 (Application Outside Great Britain) Order

1995(4) as they apply within Great Britain but they shall not apply in any case where at the relevant time article 4, 5, 6 or 7 of the said Order applies.

Repeal and revocations

9.—(1) Section 30 of the Factories Act 1961(5) is hereby repealed.

(2) The instruments set out in column 1 of the Schedule to these Regulations are hereby revoked to the extent shown in column 3 of the said Schedule.

Signed by authority of the Secretary of State

Angela Eagle

Parliamentary Under Secretary of State, Department of the Environment, Transport and the Regions.

17th July 1997

Regulation 9(2)

SCHEDULE Revocations

(1)

Instrument revoked

Shipbuilding and Ship-repairing Regulations 1960.

The Shipbuilding (Reports on Breathing Apparatus etc.) Order 1961.

The Breathing Apparatus, etc. (Report on Examination) Order 1961.

The Agriculture (Poisonous Substances) Act 1952 (Repeals and Modifications) Regulations 1975.

The Kiers Regulations 1938 (Metrication) Regulations 1981

The Docks Regulations 1988.

(2)

Reference

[S.I. 1960/1932](#); relevant amending instruments are [1989/635](#) and [S.I. 1992/2966](#).

[S.I. 1961/114](#).

[S.I. 1961/1345](#).

[S.I. 1975/45](#).

[S.I. 1981/1152](#).

[S.I. 1988/1655](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations impose requirements and prohibitions with respect to the health and safety of persons carrying out work in confined spaces (as defined in regulation 2).

2. The Regulations do not apply to activities on-board ship, below ground at a mine or to any diving operation within the meaning of the Diving Operations at Work Regulations 1981 (regulation 3).

3. The Regulations give effect as respects Great Britain to points 6.2 and 6.3 of Part A of Annex IV to Council Directive [92/57/EEC](#) (OJ No. L245, 26.8.92, p.6) on

the implementation of minimum safety and health requirements at temporary or mobile construction sites.

4. The Regulations—

(a) prohibit the entry into a confined space for the purpose of carrying out work where it is reasonably practicable to carry out the work by other means (regulation 4(1));

(b) require work in a confined space to be carried out only in accordance with a safe system of work (regulation 4(2));

(c) impose requirements with regard to the preparation and implementation of adequate arrangements for the rescue of any person at work in a confined space in the event of an emergency (regulation 5);

(d) provide that the Health and Safety Executive may grant exemptions from any requirement or prohibition of the Regulations in specified circumstances (regulation 6);

(e) provide a defence in proceedings in respect of the duty to implement emergency arrangements (regulation 7);

(f) extend the application of the Regulations to specified activities within territorial waters (regulation 8);

(g) provide for the repeal and revocation of specified enactments (regulation 9).

5. A copy of the cost benefit assessment prepared in respect of these Regulations can be obtained from the Health and Safety Executive, Safety Policy Directorate, Branch B, Rose Court, 2, Southwark Bridge, London, SE1 9HS. A copy has been placed in the Library of each House of Parliament.

(1)

[1974 c. 37](#); sections 15(1) and 50 were amended by Schedule 15 of the Employment Protection Act [1975 \(c. 71\)](#), paragraphs 6 and 16(3) respectively.

(2)

[S.I. 1981/399](#); relevant amending instrument is [S.I. 1990/996](#).

(3)

[1954 c. 70](#); section 180 was modified by paragraph 3 of Part I of Schedule 2 to [S.I. 1974/2013](#) and by Schedule 3, Part II of [S.I. 1993/1897](#).

(4)

[S.I. 1995/263](#).

(5)

[1961 c. 34](#); section 30 was amended by [S.I. 1983/978](#).