



Health and Safety at Work etc. Act 1974

1974 CHAPTER 37

PART I

HEALTH, SAFETY AND WELFARE IN CONNECTION WITH WORK, AND CONTROL OF DANGEROUS SUBSTANCES AND CERTAIN EMISSIONS INTO THE ATMOSPHERE

Miscellaneous and supplementary

44 Appeals in connection with licensing provisions in the relevant statutory provisions.

- (1) Any person who is aggrieved by a decision of an authority having power to issue licences (other than . . . ^{F1} nuclear site licences) under any of the relevant statutory provisions—
 - (a) refusing to issue him a licence, to renew a licence held by him, or to transfer to him a licence held by another;
 - (b) issuing him a licence on or subject to any term, condition or restriction whereby he is aggrieved;
 - (c) varying or refusing to vary any term, condition or restriction on or subject to which a licence is held by him; or
 - (d) revoking a licence held by him,may appeal to the Secretary of State.
- (2) The Secretary of State may, in such cases as he considers it appropriate to do so, having regard to the nature of the questions which appear to him to arise, direct that an appeal under this section shall be determined on his behalf by a person appointed by him for that purpose.
- (3) Before the determination of an appeal the Secretary of State shall ask the appellant and the authority against whose decision the appeal is brought whether they wish to appear and be heard on the appeal and—
 - (a) the appeal may be determined without a hearing of the parties if both of them express a wish not to appear and be heard as aforesaid;

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- (b) the Secretary of State shall, if either of the parties expresses a wish to appear and be heard, afford to both of them an opportunity of so doing.
- (4) The Tribunals and Inquiries Act [^{F2}1992] shall apply to a hearing held by a person appointed in pursuance of subsection (2) above to determine an appeal as it applies to a statutory inquiry held by the Secretary of State, but as if in [^{F2}section 10(1)] of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State included a reference to a decision taken on his behalf by that person.
- (5) A person who determines an appeal under this section on behalf of the Secretary of State and the Secretary of State, if he determines such an appeal, may give such directions as he considers appropriate to give effect to his determination.
- (6) The Secretary of State may pay to any person appointed to hear or determine an appeal under this section on his behalf such remuneration and allowances as the Secretary of State may with the approval of the Minister for the Civil Service determine.
- (7) In this section—
- (a) “licence” means a licence under any of the relevant statutory provisions other than [^{F3}a nuclear site licence];
- (b) “nuclear site licence” means a licence to use a site for the purpose of installing or operating a nuclear installation within the meaning of the following subsection.
- (8) For the purposes of the preceding subsection “nuclear installation” means—
- (a) a nuclear reactor (other than such a reactor comprised in a means of transport, whether by land, water or air); or
- (b) any other installation of such class or description as may be prescribed for the purposes of this paragraph or section 1(1)(b) of the ^{M1}Nuclear Installations Act 1965 being an installation designed or adapted for—
- (i) the production or use of atomic energy; or
- (ii) the carrying out of any process which is preparatory or ancillary to the production or use of atomic energy and which involves or is capable of causing the emission of ionising radiations; or
- (iii) the storage, processing or disposal of nuclear fuel or of bulk quantities of other radioactive matter, being matter which has been produced or irradiated in the course of the production or use of nuclear fuel;

and in this subsection—

“atomic energy” has the meaning assigned by the ^{M2}Atomic Energy Act 1946;

“nuclear reactor” means any plant (including any machinery, equipment or appliance, whether affixed to land or not) designed or adapted for the production of atomic energy by a fission process in which a controlled chain reaction can be maintained without an additional source of neutrons.

Textual Amendments

- F1** Words repealed by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 18](#)
- F2** Words in s. 44(4) substituted (1.10.1992) by [Tribunals and Inquiries Act 1992 \(c. 53\)](#), ss. 18(1), 19(2), [Sch. 3 para.9](#)
- F3** Words substituted by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 15 para. 13](#)

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Changes to legislation: There are currently no known outstanding effects for the Health and Safety at Work etc. Act 1974, Cross Heading: Miscellaneous and supplementary. (See end of Document for details)

Modifications etc. (not altering text)

- C1** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by S.I. 1989/840, **arts. 2–10**
- C2** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11)
- C3** S. 44(2)-(6) applied (13.5.2000) by S.I. 1999/3232, **reg. 5(6)**
- C4** S. 44(2)-(6) applied (26.4.2005) by S.I. 2005/1082, **reg. 19**

Marginal Citations

- M1** 1965 c. 57.
- M2** 1946 c. 80.

45 Default powers.

- (1) Where, in the case of a local authority who are an enforcing authority, the Commission is of the opinion that an investigation should be made as to whether that local authority have failed to perform any of their enforcement functions the Commission may make a report to the Secretary of State.
- (2) The Secretary of State may, after considering a report submitted to him under the preceding subsection, cause a local inquiry to be held; and the provisions of subsections (2) to (5) of section 250 of the ^{M3}Local Government Act 1972 as to local inquiries shall, without prejudice to the generality of subsection (1) of that section, apply to a local inquiry so held as they apply to a local inquiry held in pursuance of that section.
- (3) If the Secretary of State is satisfied, after having caused a local inquiry to be held into the matter, that a local authority have failed to perform any of their enforcement functions, he may make an order declaring the authority to be in default.
- (4) An order made by virtue of the preceding subsection which declares an authority to be in default may, for the purpose of remedying the default, direct the authority (hereafter in this section referred to as “the defaulting authority”) to perform such of their enforcement functions as are specified in the order in such manner as may be so specified and may specify the time or times within which those functions are to be performed by the authority.
- (5) If the defaulting authority fail to comply with any direction contained in such an order the Secretary of State may, instead of enforcing the order by mandamus, make an order transferring to the Executive such of the enforcement functions of the defaulting authority as he thinks fit.
- (6) Where any enforcement functions of the defaulting authority are transferred in pursuance of the preceding subsection, the amount of any expenses which the Executive certifies were incurred by it in performing those functions shall on demand be paid to it by the defaulting authority.
- (7) Any expenses which in pursuance of the preceding subsection are required to be paid by the defaulting authority in respect of any enforcement functions transferred in pursuance of this section shall be defrayed by the authority in the like manner, and shall be debited to the like account, as if the enforcement functions had not been transferred and the expenses had been incurred by the authority in performing them.
- (8) Where the defaulting authority are required to defray any such expenses the authority shall have the like powers for the purpose of raising the money for defraying those

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expenses as they would have had for the purpose of raising money required for defraying expenses incurred for the purpose of the enforcement functions in question.

- (9) An order transferring any enforcement functions of the defaulting authority in pursuance of subsection (5) above may provide for the transfer to the Executive of such of the rights, liabilities and obligations of the authority as the Secretary of State considers appropriate; and where such an order is revoked the Secretary of State may, by the revoking order or a subsequent order, make such provision as he considers appropriate with respect to any rights, liabilities and obligations held by the Executive for the purposes of the transferred enforcement functions.
- (10) The Secretary of State may by order vary or revoke any order previously made by him in pursuance of this section.
- (11) In this section “enforcement functions”, in relation to a local authority, means the functions of the authority as an enforcing authority.
- (12) In the application of this section to Scotland—
- (a) in subsection (2) for the words “subsections (2) to (5) of section 250 of the ^{M4}Local Government Act 1972” there shall be substituted the words “subsections (2) to (8) of section 210 of the ^{M5}Local Government (Scotland) Act 1973”, except that before 16th May 1975 for the said words there shall be substituted the words “subsections (2) to (9) of section 355 of the ^{M6}Local Government (Scotland) Act 1947”;
 - (b) in subsection (5) the words “instead of enforcing the order by mandamus” shall be omitted.

Modifications etc. (not altering text)

C5 Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), **arts. 2–10**

C6 Ss. 1–59, 80–82 applied (11.7.2001) by [S.I. 2001/2127](#), **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with [art. 11](#))

Marginal Citations

M3 1972 c. 70.

M4 1972 c. 70.

M5 1973 c. 65.

M6 1947 c. 43.

46 Service of notices.

- (1) Any notice required or authorised by any of the relevant statutory provisions to be served on or given to an inspector may be served or given by delivering it to him or by leaving it at, or sending it by post to, his office.
- (2) Any such notice required or authorised to be served on or given to a person other than an inspector may be served or given by delivering it to him, or by leaving it at his proper address, or by sending it by post to him at that address.
- (3) Any such notice may—
 - (a) in the case of a body corporate, be served on or given to the secretary or clerk of that body;

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- (b) in the case of a partnership, be served on or given to a partner or a person having the control or management of the partnership business or, in Scotland, the firm.
- (4) For the purposes of this section and of [^{F4}section 7 of the ^{M7}Interpretation Act 1978] (service of documents by post) in its application to this section, the proper address of any person on or to whom any such notice is to be served or given shall be his last known address, except that—
- (a) in the case of a body corporate or their secretary or clerk, it shall be the address of the registered or principal office of that body;
- (b) in the case of a partnership or a person having the control or the management of the partnership business, it shall be the principal office of the partnership;
- and for the purposes of this subsection the principal office of a company registered outside the United Kingdom or of a partnership carrying on business outside the United Kingdom shall be their principal office within the United Kingdom.
- (5) If the person to be served with or given any such notice has specified an address within the United Kingdom other than his proper address within the meaning of subsection (4) above as the one at which he or someone on his behalf will accept notices of the same description as that notice, that address shall also be treated for the purposes of this section and [^{F4}section 7 of the Interpretation Act 1978] as his proper address.
- (6) Without prejudice to any other provision of this section, any such notice required or authorised to be served on or given to the owner or occupier of any premises (whether a body corporate or not) may be served or given by sending it by post to him at those premises, or by addressing it by name to the person on or to whom it is to be served or given and delivering it to some responsible person who is or appears to be resident or employed in the premises.
- (7) If the name or the address of any owner or occupier of premises on or to whom any such notice as aforesaid is to be served or given cannot after reasonable inquiry be ascertained, the notice may be served or given by addressing it to the person on or to whom it is to be served or given by the description of “owner” or “occupier” of the premises (describing them) to which the notice relates, and by delivering it to some responsible person who is or appears to be resident or employed in the premises, or, if there is no such person to whom it can be delivered, by affixing it or a copy of it to some conspicuous part of the premises.
- (8) The preceding provisions of this section shall apply to the sending or giving of a document as they apply to the giving of a notice.

Textual Amendments

F4 Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 25\(2\)](#)

Modifications etc. (not altering text)

C7 S. 46 applied by [S.I. 1989/840, arts. 2-10](#)

S. 46 excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840, regs. 7, 9](#)

S. 46 extended (E.W.S.) (1.10.1996) by [S.I. 1996/1513, reg. 10 S. 46](#): power to apply conferred (E.W.S.) (28.8.1995) by [1995 c. 15, ss. 2\(4\)\(I\), 5](#) (with [s. 3\(5\)](#))

S. 46 applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772, reg. 17](#)

C8 Ss. 1-59, 80-82 applied (11.7.2001) by [S.I. 2001/2127, arts. 4\(1\), 5\(1\)\(2\), 6\(1\), 7\(1\), 8\(1\), 10](#) (with [art. 11](#)) (as amended by [S.I. 2009/1750, art. 2\(2\)\(4\)](#))

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- C9** S. 46 applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by S.I. 2003/403, regs. 1(2), **23(2)(a)(3)**; s. 46 applied (with modifications) (E.W.S.) (9.6.2004) by S.I. 2004/1309, **reg. 17**
- C10** S. 46 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by **The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531)**, **art. 4(2)(3)(i)** (subject to (4)-(6)) (with **art. 7**)
- C11** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by **The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127)**, arts. 8A, 8B (as inserted by S.I. 2009/1750, **art. 2(3)**)
- C12** S. 46 applied (with modifications) (E.W.S.) (6.4.2010) by **The Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (S.I. 2010/432)**, **reg. 6(2)(3)(h)**
- C13** S. 46 applied (with modifications) (E.W.S.) (6.4.2010) by **The Train Driving Licences and Certificates Regulations 2010 (S.I. 2010/724)**, regs. 1(2), **38(2)(3)(h)**

Marginal Citations

M7 1978 c. 30.

47 Civil liability.

- (1) Nothing in this Part shall be construed—
- (a) as conferring a right of action in any civil proceedings in respect of any failure to comply with any duty imposed by sections 2 to 7 or any contravention of section 8; or
 - (b) as affecting the extent (if any) to which breach of a duty imposed by any of the existing statutory provisions is actionable; or
 - (c) as affecting the operation of section 12 of the ^{M8}Nuclear Installations Act 1965 (right to compensation by virtue of certain provisions of that Act).
- (2) Breach of a duty imposed by health and safety regulations ^{F5} . . . shall, so far as it causes damage, be actionable except in so far as the regulations provide otherwise.
- (3) No provision made by virtue of section 15(6)(b) shall afford a defence in any civil proceedings, whether brought by virtue of subsection (2) above or not; but as regards any duty imposed as mentioned in subsection (2) above health and safety regulations ^{F5} . . . may provide for any defence specified in the regulations to be available in any action for breach of that duty.
- (4) Subsections (1)(a) and (2) above are without prejudice to any right of action which exists apart from the provisions of this Act, and subsection (3) above is without prejudice to any defence which may be available apart from the provisions of the regulations there mentioned.
- (5) Any term of an agreement which purports to exclude or restrict the operation of subsection (2) above, or any liability arising by virtue of that subsection shall be void, except in so far as health and safety regulations ^{F5} . . . provide otherwise.
- (6) In this section “damage” includes the death of, or injury to, any person (including any disease and any impairment of a person’s physical or mental condition).

Textual Amendments

F5 Words repealed by **Employment Protection Act 1975 (c. 71)**, **Sch. 18**

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Modifications etc. (not altering text)

- C14** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), [arts. 2–10](#)
Ss. 16–24, 26, 28, 33–40, 42, 46, 47 excluded (with saving) (E.W.S.) (1.12.1997) by [S.I. 1997/1840](#),
[regs. 7, 9](#)
Ss. 16–26, 33–42, 47 applied (15.11.2000) by [S.I. 2000/2831](#), [reg. 26\(1\)\(a\)](#)
- C15** Ss. 1–59, 80–82 applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\)](#), 5(1)(2), 6(1), 7(1), 8(1), 10 (with [art. 11](#)) (as amended by [S.I. 2009/1750](#), [art. 2\(2\)\(4\)](#))
- C16** Ss. 1–59, 80–82 applied (temp.) (5.8.2009) by The Health and Safety at Work etc. Act 1974
(Application outside Great Britain) Order 2001 ([S.I. 2001/2127](#)), [arts. 8A, 8B](#) (as inserted by [S.I. 2009/1750](#), [art. 2\(3\)](#))
- C17** S. 47(2) applied (E.W.S.) (24.7.2002) by [S.I. 2002/1689](#), [reg. 14\(1\)\(c\)](#)

Marginal Citations

- M8** 1965 c. 57.

48 Application to Crown.

- (1) Subject to the provisions of this section, the provisions of this Part, except sections 21 to 25 and 33 to 42, and of regulations made under this Part shall bind the Crown.
- (2) Although they do not bind the Crown, sections 33 to 42 shall apply to persons in the public service of the Crown as they apply to other persons.
- (3) For the purposes of this Part and regulations made thereunder persons in the service of the Crown shall be treated as employees of the Crown whether or not they would be so treated apart from this subsection.
- (4) Without prejudice to section 15(5), the Secretary of State may, to the extent that it appears to him requisite or expedient to do so in the interests of the safety of the State or the safe custody of persons lawfully detained, by order exempt the Crown either generally or in particular respects from all or any of the provisions of this Part which would, by virtue of subsection (1) above, bind the Crown.
- (5) The power to make orders under this section shall be exercisable by statutory instrument, and any such order may be varied or revoked by a subsequent order.
- (6) Nothing in this section shall authorise proceedings to be brought against Her Majesty in her private capacity, and this subsection shall be construed as if section 38(3) of the ^{M9}Crown Proceedings Act 1947 (interpretation of references in that Act to Her Majesty in her private capacity) were contained in this Act.

Modifications etc. (not altering text)

- C18** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), [arts. 2–10](#)
S. 48 extended (E.W.S.) (1.10.1996) by [S.I. 1996/1513](#), [reg. 11](#)
S. 48 applied (with modifications) (E.W.S.) (1.10.1996) by [S.I. 1996/1513](#), [reg. 11](#)
- C19** Ss. 1–59, 80–82 applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\)](#), 5(1)(2), 6(1), 7(1), 8(1), 10 (with [art. 11](#)) (as amended by [S.I. 2009/1750](#), [art. 2\(2\)\(4\)](#))
- C20** Ss. 1–59, 80–82 applied (temp.) (5.8.2009) by The Health and Safety at Work etc. Act 1974
(Application outside Great Britain) Order 2001 ([S.I. 2001/2127](#)), [arts. 8A, 8B](#) (as inserted by [S.I. 2009/1750](#), [art. 2\(3\)](#))
- C21** S. 48(1) applied (with modifications) (E.W.S.) (3.5.2004) by [S.I. 2004/129](#), [reg. 23\(3\)\(f\)](#)
- C22** S. 48(2) applied (with modifications) (E.W.S.) (3.5.2004) by [S.I. 2004/129](#), [reg. 23\(3\)\(f\)](#)

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- C23** S. 48(3) applied (with modifications) (E.W.S.) (3.5.2004) by [S.I. 2004/129](#), [reg. 23\(3\)\(f\)](#)
C24 S. 48(4) modified (E.W.) (25.09.1991) by [Atomic Weapons Establishment Act 1991 \(c. 46, SIF 8\)](#), ss. 3, 6, [Sch. para. 7\(1\)](#).

Marginal Citations

- M9** 1947 c. 44.

49 Adaptation of enactments to metric units or appropriate metric units.

- (1) [^{F6}Regulations made under this subsection may amend]—
- (a) any of the relevant statutory provisions; or
 - (b) any provision of an enactment which relates to any matter relevant to any of the general purposes of this Part but is not among the relevant statutory provisions; or
 - (c) any provision of an instrument made or having effect under any such enactment as is mentioned in the preceding paragraph,
- by substituting an amount or quantity expressed in metric units for an amount or quantity not so expressed or by substituting an amount or quantity expressed in metric units of a description specified in the regulations for an amount or quantity expressed in metric units of a different description.
- (2) The amendments shall be such as to preserve the effect of the provisions mentioned except to such extent as in the opinion of the [^{F6}authority making the regulations] is necessary to obtain amounts expressed in convenient and suitable terms.
- (3) Regulations made . . . ^{F7} under this subsection may, in the case of a provision which falls within any of paragraphs (a) to (c) of subsection (1) above and contains words which refer to units other than metric units, repeal those words [^{F6}if the authority making the regulations] is of the opinion that those words could be omitted without altering the effect of that provision.
- [^{F8}(4) The power to make regulations under this section shall be exercisable by the Secretary of State, the Minister of Agriculture, Fisheries and Food or the Secretary of State and that Minister acting jointly].

Textual Amendments

- F6** Words substituted by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 15 para. 15\(1\)](#)
F7 Words repealed by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 18](#)
F8 [S. 49\(4\)](#) substituted by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 15 para. 15\(2\)](#)

Modifications etc. (not altering text)

- C25** [Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81](#) and 82 applied by [S.I. 1989/840](#), [arts. 2–10](#)
C26 [Ss. 1–59, 80–82](#) applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\), 5\(1\)\(2\), 6\(1\), 7\(1\), 8\(1\), 10](#) (with [art. 11](#))

50 Regulations under the relevant statutory provisions.

- [^{F9}(1) Where any power to make regulations under any of the relevant statutory provisions is exercisable by the Secretary of State, the Minister of Agriculture, Fisheries and Food or both of them acting jointly that power may be exercised either so as to give

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effect (with or without modifications) to proposals submitted by the Commission under section 11(2)(d) or independently of any such proposals; but the authority who is to exercise the power shall not exercise it independently of proposals from the Commission unless he has consulted the Commission and such other bodies as appear to him to be appropriate.]

- (2) Where the [^{F10}authority who is to exercise any such power as is mentioned in subsection (1) above proposes to exercise that power] so as to give effect to any such proposals as are there mentioned with modifications, he shall, before making the regulations, consult the Commission.
- (3) Where the Commission proposes to submit [^{F11}under section 11(2)(d)] any such proposals as are mentioned in subsection (1) above except proposals for the making of regulations under section 43(2), it shall, before so submitting them, consult—
- (a) any government department or other body that appears to the Commission to be appropriate (and, in particular, in the case of proposals for the making of regulations under section 18(2), any body representing local authorities that so appears, and, in the case of proposals for the making of regulations relating to the electro-magnetic radiations, the National Radiological Protection Board);
 - (b) such government departments and other bodies, if any, as, in relation to any matter dealt with in the proposals, the Commission is required to consult under this subsection by virtue of directions given to it by the Secretary of State.

^{F12}(4)

Textual Amendments

- F9** S. 50(1) substituted by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 15 para. 16(1)**
- F10** Words substituted by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 15 para. 16(2)**
- F11** Words substituted by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 15 para. 16(3)**
- F12** Ss. 2(5), 29, 31, 32, 50(4)(5), 53(2)–(6) repealed by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 18**

Modifications etc. (not altering text)

- C27** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by S.I. 1989/840, **arts. 2–10**
- C28** Ss. 1–59, 80–82 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with **art. 11**)

51 Exclusion of application to domestic employment.

Nothing in this Part shall apply in relation to a person by reason only that he employs another, or is himself employed, as a domestic servant in a private household.

Modifications etc. (not altering text)

- C29** Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by S.I. 1989/840, **arts. 2–10**
- C30** Ss. 1–59, 80–82 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with **art. 11**) (as amended by S.I. 2009/1750, **art. 2(2)(4)**)
- C31** Ss. 1–59, 80–82 applied (temp.) (5.8.2009) by The Health and Safety at Work etc. Act 1974 ([Application outside Great Britain](#)) Order 2001 (S.I. 2001/2127), **arts. 8A, 8B** (as inserted by S.I. 2009/1750, **art. 2(3)**)

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[^{F13}51A Application of Part to police.

(1) For the purposes of this Part, a person who, otherwise than under a contract of employment, holds the office of constable or an appointment as police cadet shall be treated as an employee of the relevant [^{F14}authority].

[In this section “the relevant authority” means—

- ^{F15}(2) (a) in relation to a member of a police force, a special constable appointed for a police area or a police cadet appointed by a chief officer of police, the police authority or, in the case of a combined area in Scotland, the police board (within the meaning of the Police (Scotland) Act 1967 (c. 77));
- (b) in relation to a person appointed as a police member of the National Criminal Intelligence Service, the Service Authority for that service;
- (c) in relation to a person appointed as a police member of the National Crime Squad, the Service Authority for that squad;
- (d) in relation to any other person holding the office of constable or an appointment as police cadet, the person responsible for maintaining the body of constables or police cadets in question.

(2A) The Commissioner of Police for the City of London shall be treated for the purposes of this section as if he were a member of the City of London police force.]

[The following provisions (which impose the same liability for unlawful conduct of

^{F16}(2B) constables on persons with their direction and control as would arise if the constables were the employees of those persons) do not apply in relation to any liability arising in respect of a contravention of this Act—

- (a) section 88(1) of the Police Act 1996 (c. 16);
- (b) section 97(9) of that Act;
- (c) section 42(1) of the Police Act 1997 (c. 50);
- (d) section 86(1) of that Act;
- (e) paragraph 7(1) of Schedule 8 to that Act;
- (f) section 39 of the Police (Scotland) Act 1967 (c. 77); and
- (g) paragraph 14(1) of Schedule 3 to the Criminal Justice and Police Act 2001 (c. 16).

(2C) The provision which may be made by health and safety regulations includes in particular—

- (a) provision which, for the purposes of this Part specified in the regulations, treats the acts or omissions of a chief officer as if they were acts or omissions of the relevant authority in relation to the constables or police cadets under that officer’s direction and control;
- (b) provision which treats premises under the control of a chief officer as premises under the control of the relevant authority in relation to that officer.

(2D) In subsection (2C) “chief officer” means—

- (a) a chief officer of police;
- (b) the Director General of the National Criminal Intelligence Service;
- (c) the Director General of the National Crime Squad; or
- (d) any other person having direction and control of a body of constables or police cadets.]

(3) For the purposes of regulations under section 2(4) above—

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- (a) the Police Federation for England and Wales shall be treated as a recognised trade union recognised by each [^{F17}police authority] in England and Wales,
 - (b) the Police Federation for Scotland shall be treated as a recognised trade union recognised by each [^{F17}police authority] in Scotland, and
 - (c) any body recognised by the Secretary of State for the purposes of section 64 of the Police Act 1996 shall be treated as a recognised trade union recognised by each [^{F17}police authority] in England, Wales and Scotland.
- (4) Regulations under section 2(4) above may provide, in relation to persons falling within subsection (2)(b) [^{F18}, (c) or (d)] above, that a body specified in the regulations is to be treated as a recognised trade union recognised by such person as may be specified.]

Textual Amendments

- F13** S. 51A inserted (E.W.S.) (1.7.1998) by 1997 c. 42, s. 1; S.I. 1998/1542, art. 2
- F14** Word in s. 51A(1) substituted (prosp.) by 2002 c. 30, ss. 95(2), 108(2) (which s. 95 was repealed (7.4.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 158(4)(a)(6)(7), 174(2), Sch. 17 Pt. 1)
- F15** S. 51A(2)(2A) substituted (prosp.) for s. 51A(2) by 2002 c. 30, ss. 95(3), 108(2) (which s. 95 was repealed (7.4.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 158(4)(a)(6)(7), 174(2), Sch. 17 Pt. 1)
- F16** S. 51A(2B)-(2D) inserted (prosp.) by 2002 c. 30, ss. 95(4), 108(2) (which s. 95 was repealed (7.4.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 158(4)(a)(6)(7), 174(2), Sch. 17 Pt. 1)
- F17** Words in s. 51A(3) substituted (prosp.) by 2002 c. 30, ss. 95(5), 108(2) (which s. 95 was repealed (7.4.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 158(4)(a)(6)(7), 174(2), Sch. 17 Pt. 1)
- F18** Words in s. 51A(4) substituted (prosp.) by 2002 c. 30, ss. 95(6), 108(2) (which s. 95 was repealed (7.4.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 158(4)(a)(6)(7), 174(2), Sch. 17 Pt. 1)

Modifications etc. (not altering text)

- C32** S. 51A applied (14.4.1999) by S.I. 1999/860, art. 2
- C33** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10 (with art. 11)

52 Meaning of work and at work.

(1) For the purposes of this Part—

- (a) “work” means work as an employee or as a self-employed person;
- (b) an employee is at work throughout the time when he is in the course of his employment, but not otherwise; and
- (c) a self-employed person is at work throughout such time as he devotes to work as a self-employed person;

and, subject to the following subsection, the expressions “work” and “at work”, in whatever context, shall be construed accordingly.

(2) Regulations made under this subsection may—

- (a) extend the meaning of “work” and “at work” for the purposes of this Part; and
- (b) in that connection provide for any of the relevant statutory provisions to have effect subject to such adaptations as may be specified in the regulations.

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[^{F19}(3) The power to make regulations under subsection (2) above shall be exercisable by the Secretary of State, the Minister of Agriculture, Fisheries and Food or the Secretary of State and that Minister acting jointly.]

Textual Amendments

F19 S. 52(3) substituted for s. 52(3)(4) by [Employment Protection Act 1975 \(c. 71\)](#), [Sch. 15 para. 17](#)

Modifications etc. (not altering text)

C34 Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by [S.I. 1989/840](#), [arts. 2–10](#)

53 General interpretation of Part I.

(1) In this Part, unless the context otherwise requires—

^{F20}

“article for use at work” means—

(a) any plant designed for use or operation (whether exclusively or not) by persons at work, and

(b) any article designed for use as a component in any such plant;

[^{F21}“article of fairground equipment” means any fairground equipment or any article designed for use as a component in any such equipment;]

“code of practice” (without prejudice to section 16(8)) includes a standard, a specification and any other documentary form of practical guidance;

“the Commission” has the meaning assigned by section 10(2);

“conditional sale agreement” means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;

“contract of employment” means a contract of employment or apprenticeship (whether express or implied and, if express, whether oral or in writing);

“credit-sale agreement” means an agreement for the sale of goods, under which the purchase price or part of it is payable by instalments, but which is not a conditional sale agreement;

[^{F22}“customs officer” means an officer within the meaning of the Customs and Excise Management Act ^{M10}1979;]

“domestic premises” means premises occupied as a private dwelling (including any garden, yard, garage, outhouse or other appurtenance of such premises which is not used in common by the occupants of more than one such dwelling), and

“non-domestic premises” shall be construed accordingly;

“employee” means an individual who works under a contract of employment, and related expressions shall be construed accordingly;

“enforcing authority” has the meaning assigned by section 18(7);

“the Executive” has the meaning assigned by section 10(5);

“the existing statutory provisions” means the following provisions while and to the extent that they remain in force, namely the provisions of the Acts mentioned in Schedule 1 which are specified in the third column of that Schedule and of the

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regulations, orders or other instruments of a legislative character made or having effect under any provision so specified;

F23
.....

[^{F24}“fairground equipment” means any fairground ride, any similar plant which is designed to be in motion for entertainment purposes with members of the public on or inside it or any plant which is designed to be used by members of the public for entertainment purposes either as a slide or for bouncing upon, and in this definition the reference to plant which is designed to be in motion with members of the public on or inside it includes a reference to swings, dodgems and other plant which is designed to be in motion wholly or partly under the control of, or to be put in motion by, a member of the public;]

“the general purposes of this Part” has the meaning assigned by section 1;

“health and safety regulations” has the meaning assigned by section 15(1);

“hire-purchase agreement” means an agreement other than a conditional sale agreement, under which—

- (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired; and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs:
 - (i) the exercise of an option to purchase by that person;
 - (ii) the doing of any other specified act by any party to the agreement;
 - (iii) the happening of any other event;

and “hire-purchase” shall be construed accordingly;

“improvement notice” means a notice under section 21;

“inspector” means an inspector appointed under section 19;

F23
.....

“local authority” means—

- (a) in relation to England ^{F25} . . . , a county council, ^{F26} . . . a district council, a London borough council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple or the Under-Treasurer of the Middle Temple,
- (aa) [^{F27}in relation to Wales, a county council or a county borough council,]
- (b) in relation to Scotland, a [^{F28}council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

[^{F29}“micro-organism” includes any microscopic biological entity which is capable of replication;]

“offshore installation” means any installation which is intended for underwater exploitation of mineral resources or exploration with a view to such exploitation;

“personal injury” includes any disease and any impairment of a person’s physical or mental condition;

“plant” includes any machinery, equipment or appliance;

“premises” includes any place and, in particular, includes—

- (a) any vehicle, vessel, aircraft or hovercraft,
- (b) any installation on land (including the foreshore and other land intermittently covered by water), any offshore installation, and any other installation (whether floating, or resting on the seabed or the subsoil

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thereof, or resting on other land covered with water or the subsoil thereof), and

(c) any tent or moveable structure;

“prescribed” means prescribed by regulations made by the Secretary of State;

“prohibition notice” means a notice under section 22;

F23

“the relevant statutory provisions” means—

(a) the provisions of this Part and of any health and safety regulations^{F30} . . . ;
and

(b) the existing statutory provisions;

“self-employed person” means an individual who works for gain or reward otherwise than under a contract of employment, whether or not he himself employs others;

“substance” means any natural or artificial substance [^{F31}(including micro-organisms)], whether in solid or liquid form or in the form of a gas or vapour;

F32

“supply”, where the reference is to supplying articles or substances, means supplying them by way of sale, lease, hire or hire-purchase, whether as principal or agent for another.

F33(2)

Textual Amendments

- F20** Definitions repealed by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 18**
- F21** Definition inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 7(a)**
- F22** Definition inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 7(b)**
- F23** Definition repealed by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 18**
- F24** Definition inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 7(c)**
- F25** [S. 53\(1\)](#): words in definition of “local authority” repealed (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 9**, **Sch. 18** (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, art. 3, **Sch. 1**
- F26** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F27** [S. 53\(1\)](#): in definition of “local authority” para. (aa) inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 9** (with ss. 54(5)(7), 55(5), [Sch. 17 paras. 22\(1\), 23\(2\)](#)); S.I. 1996/396, art. 3, **Sch. 1**
- F28** [S. 53\(1\)](#): words in definition of “local authority” substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 93(3)**; S.I. 1996/323, **art. 4(1)(b)(c)**
- F29** Definition inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 7(d)**
- F30** Words repealed by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 18**
- F31** Words inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 7(e)**
- F32** Definition repealed by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 48(3), **Sch. 5**
- F33** [Ss. 2\(5\), 29, 31, 32, 50\(4\)\(5\), 53\(2\)–\(6\)](#) repealed by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 18**

Modifications etc. (not altering text)

- C35** [Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81](#) and 82 applied by S.I. 1989/840, **arts. 2–10**
- C36** In s. 53: definition of “relevant statutory provisions” applied by [Tay Road Bridge Order Confirmation Act 1991 \(c. iv\)](#), s. 1, **Sch. Pt. VII s. 62**
In s. 53: definition of “relevant statutory provisions” applied (25.7.1991) by [Highland Regional Council \(Harbours\) Order Confirmation Act 1991 \(c. xii\)](#), s. 1, **Sch. s. 61(1)(f)**

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Marginal Citations

M10 1979 c.2(40:1).

54 Application of Part I to Isles of Scilly.

This Part, in its application to the Isles of Scilly, shall apply as if those Isles were a local government area and the Council of those Isles were a local authority.

Modifications etc. (not altering text)

C37 Ss. 1–25, 26, 27, 28, 30, 33, 34–59, 80, 81 and 82 applied by S.I. 1989/840, **arts. 2–10**

C38 Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11) (as amended by S.I. 2009/1750, **art. 2(2)(4)**)

C39 Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127), arts. 8A, 8B (as inserted by S.I. 2009/1750, **art. 2(3)**)

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