



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

The Health and Safety Commission and the Health and Safety Executive

10 Establishment of the Commission and the Executive

- (1) There shall be two bodies corporate to be called the Health and Safety Commission and the Health and Safety Executive which shall be constituted in accordance with the following provisions of this section.
- (2) The Health and Safety Commission (hereafter in this Act referred to as " the Commission ") shall consist of a chairman appointed by the Secretary of State and not less than six nor more than nine other members appointed by the Secretary of State in accordance with subsection (3) below.
- (3) Before appointing the members of the Commission (other than the chairman) the Secretary of State shall—
 - (a) as to three of them, consult such organisations representing employers as he considers appropriate ;
 - (b) as to three others, consult such organisations representing employees as he considers appropriate; and
 - (c) as to any other members he may appoint, consult such organisations representing local authorities and such other organisations, including professional bodies, the activities of whose members are concerned with matters relating to any of the general purposes of this Part, as he considers appropriate.
- (4) The Secretary of State may appoint one of the members to be deputy chairman of the Commission.

- (5) The Health and Safety Executive (hereafter in this Act referred to as " the Executive ") shall consist of three persons of whom one shall be appointed by the Commission with the approval of the Secretary of State to be the director of the Executive and the others shall be appointed by the Commission with the like approval after consultation with the said director.
- (6) The provisions of Schedule 2 shall have effect with respect to the Commission and the Executive.
- (7) The functions of the Commission and of the Executive, and of their officers and servants, shall be performed on behalf of the Crown.

11 General functions of the Commission and the Executive

- (1) In addition to the other functions conferred on the Commission by virtue of this Act, but subject to subsection (3) below, it shall be the general duty of the Commission to do such things and make such arrangements as it considers appropriate for the general purposes of this Part except as regards matters relating exclusively to agricultural operations.
- (2) It shall be the duty of the Commission, except as aforesaid—
 - (a) to assist and encourage persons concerned with matters relevant to any of the general purposes of this Part to further those purposes;
 - (b) to make such arrangements as it considers appropriate for the carrying out of research, the publication of the results of research and the provision of training and information in connection with those purposes, and to encourage research and the provision of training and information in that connection by others ;
 - (c) to make such arrangements as it considers appropriate for securing that government departments, employers, employees, organisations representing employers and employees respectively, and other persons concerned with matters relevant to any of those purposes are provided with an information and advisory service and are kept informed of, and adequately advised on, such matters;
 - (d) to submit from time to time to the authority having power to make regulations under any of the relevant statutory provisions such proposals as the Commission considers appropriate for the making of regulations under that power.
- (3) It shall be the duty of the Commission—
 - (a) to submit to the Secretary of State from time to time particulars of what it proposes to do for the purpose of performing its functions ; and
 - (b) subject to the following paragraph, to ensure that its activities are in accordance with proposals approved by the Secretary of State; and
 - (c) to give effect to any directions given to it by the Secretary of State.
- (4) In addition to any other functions conferred on the Executive by virtue of this Part, it shall be the duty of the Executive—
 - (a) to exercise on behalf of the Commission such of the Commission's functions as the Commission directs it to exercise; and
 - (b) to give effect to any directions given to it by the Commission otherwise than in pursuance of paragraph (a) above;

but, except for the purpose of giving effect to directions given to the Commission by the Secretary of State, the Commission shall not give to the Executive any directions as to the enforcement of any of the relevant statutory provisions in a particular case.

- (5) Without prejudice to subsection (2) above, it shall be the duty of the Executive, if so requested by a Minister of the Crown—
- (a) to provide him with information about the activities of the Executive in connection with any matter with which he is concerned ; and
 - (b) to provide him with advice on any matter with which he is concerned on which relevant expert advice is obtainable from any of the officers or servants of the Executive but which is not relevant to any of the general purposes of this Part.
- (6) The Commission and the Executive shall, subject to any directions given to it in pursuance of this Part, have power to do anything (except borrow money) which is calculated to facilitate, or is conducive or incidental to, the performance of any function of the Commission or, as the case may be, the Executive (including a function conferred on it by virtue of this subsection).

12 Control of the Commission by the Secretary of State

The Secretary of State may—

- (a) approve, with or without modifications, any proposals submitted to him in pursuance of section 11 (3)(a);
- (b) give to the Commission at any time such directions as he thinks fit with respect to its functions (including directions modifying its functions, but not directions conferring on it functions other than any of which it was deprived by previous directions given by virtue of this paragraph), and any directions which it appears to him requisite or expedient to give in the interests of the safety of the State.

13 Other powers of the Commission

- (1) The Commission shall have power—
- (a) to make agreements with any government department or other person for that department or person to perform on behalf of the Commission or the Executive (with or without payment) any of the functions of the Commission or, as the case may be, of the Executive;
 - (b) subject to subsection (2) below, to make agreements with any Minister of the Crown, government department or other public authority for the Commission to perform on behalf of that Minister, department or authority (with or without payment) functions exercisable by the Minister, department or authority (including, in the case of a Minister, functions not conferred by an enactment), being functions which in the opinion of the Secretary of State can appropriately be performed by the Commission in connection with any of the Commission's functions;
 - (c) to provide (with or without payment) services or facilities required otherwise than for the general purposes of this Part in so far as they are required by any government department or other public authority in connection with the exercise by that department or authority of any of its functions;
 - (d) to appoint persons or committees of persons to provide the Commission with advice in connection with any of its functions and (without prejudice to the generality of the following paragraph) to pay to persons so appointed such

remuneration as the Secretary of State may with the approval of the Minister for the Civil Service determine;

- (e) in connection with any of the functions of the Commission, to pay to any person such travelling and subsistence allowances and such compensation for loss of remunerative time as the Secretary of State may with the approval of the Minister for the Civil Service determine;
 - (f) to carry out or arrange for or make payments in respect of research into any matter connected with any of the Commission's functions, and to disseminate or arrange for or make payments in respect of the dissemination of information derived from such research ;
 - (g) to include, in any arrangements made by the Commission for the provision of facilities or services by it or on its behalf, provision for the making of payments to the Commission or any person acting on its behalf by other parties to the arrangements and by persons who use those facilities or services.
- (2) Nothing in subsection (1)(b) shall authorise the Commission to perform any function of a Minister, department or authority which consists of a power to make regulations or other instruments of a legislative character.

14 Power of the Commission to direct investigations and inquiries

- (1) This section applies to the following matters, that is to say any accident, occurrence, situation or other matter whatsoever which the Commission thinks it necessary or expedient to investigate for any of the general purposes of this Part or with a view to the making of regulations for those purposes; and for the purposes of this subsection it is immaterial whether the Executive is or is not responsible for securing the enforcement of such (if any) of the relevant statutory provisions as relate to the matter in question.
- (2) The Commission may at any time—
- (a) direct the Executive or authorise any other person to investigate and make a special report on any matter to which this section applies ; or
 - (b) with the consent of the Secretary of State direct an inquiry to be held into any such matter;
- but shall not do so in any particular case that appears to the Commission to involve only matters relating exclusively to agricultural operations.
- (3) Any inquiry held by virtue of subsection (2)(b) above shall be held in accordance with regulations made for the purposes of this subsection by the Secretary of State, and shall be held in public except where or to the extent that the regulations provide otherwise.
- (4) Regulations made for the purposes of subsection (3) above may in particular include provision—
- (a) conferring on the person holding any such inquiry, and any person assisting him in the inquiry, powers of entry and inspection;
 - (b) conferring on any such person powers of summoning witnesses to give evidence or produce documents and power to take evidence on oath and administer oaths or require the making of declarations ;
 - (c) requiring any such inquiry to be held otherwise than in public where or to the extent that a Minister of the Crown so directs.
- (5) In the case of a special report made by virtue of subsection (2)(a) above or a report made by the person holding an inquiry held by virtue of subsection (2)(b) above, the

Commission may cause the report, or so much of it as the Commission thinks fit, to be made public at such time and in such manner as the Commission thinks fit.

(6) The Commission—

- (a) in the case of an investigation and special report made by virtue of subsection (2)(a) above (otherwise than by an officer or servant of the Executive), may pay to the person making it such remuneration and expenses as the Secretary of State may, with the approval of the Minister for the Civil Service, determine;
- (b) in the case of an inquiry held by virtue of subsection (2)(b) above, may pay to the person holding it and to any assessor appointed to assist him such remuneration and expenses, and to persons attending the inquiry as witnesses such expenses, as the Secretary of State may, with the like approval, determine ; and
- (c) may, to such extent as the Secretary of State may determine, defray the other costs, if any, of any such investigation and special report or inquiry.

(7) Where an inquiry is directed to be held by virtue of subsection (2)(b) above into any matter to which this section applies arising in Scotland, being a matter which causes the death of any person, no inquiry with regard to that death shall, unless the Lord Advocate otherwise directs, be held in pursuance of the Fatal Accidents Inquiry (Scotland) Act 1895.