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STATUTORY INSTRUMENTS

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**1998 No. 494**

**HEALTH AND SAFETY**

**The Health and Safety (Enforcing Authority) Regulations 1998**

*Made* - - - - *2nd March 1998*  
*Laid before Parliament* *6th March 1998*  
*Coming into force* - - *1st April 1998*

The Secretary of State, in exercise of the powers conferred on him by sections 15(1) and (3)(a) and (c), 18(2) and 82(3)(a) of the Health and Safety at Work etc. Act 1974<sup>(1)</sup> (“the 1974 Act”) and of all other powers enabling him in that behalf and for the purpose of giving effect without modifications 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 consultations in accordance with section 50(3) of that Act, hereby makes the following Regulations:

**Modifications etc. (not altering text)**

- C1** Regulations excluded (1.4.1999) by [The Control of Major Accident Hazards Regulations 1999](#) (S.I. 1999/743), regs. 1, **20(6)** (with reg. 3)
- C2** Regulations excluded in part (19.11.1999) by [Nuclear Reactors \(Environmental Impact Assessment for Decommissioning\) Regulations 1999](#) (S.I. 1999/2892), regs. 1, **16(2)** (with regs. 3, 14)
- C3** Regulations excluded (15.11.2000) by [The Genetically Modified Organisms \(Contained Use\) Regulations 2000](#) (S.I. 2000/2831), regs. 1, **26(3)**
- C4** Regulations applied (6.4.2001) by [The Biocidal Products Regulations 2001](#) (S.I. 2001/880), reg. 1, **Sch. 11 para. 5(6)**
- C5** Regulations applied (9.6.2004) by [The Adventure Activities \(Enforcing Authority\) Regulations 2004](#) (S.I. 2004/1359), regs. 1(1), **2(1)** (with reg. 2(2))

**Citation and commencement**

1. These Regulations may be cited as the Health and Safety (Enforcing Authority) Regulations 1998 and shall come into force on 1st April 1998.

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

*Status: Point in time view as at 06/04/2007.*

*Changes to legislation: There are currently no known outstanding effects for the The Health and Safety (Enforcing Authority) Regulations 1998. (See end of Document for details)*

### Commencement Information

**II** Reg. 1 in force at 1.4.1998, see [reg. 1](#)

### Interpretation

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

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

“agricultural activities”—

(a) includes horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping, including the management of livestock up to the point of slaughter or export from Great Britain, forestry, the use of land as grazing land, market gardens and nursery grounds and the preparation of land for agricultural use;

(b) does not include such activities at a garden centre or other shop,

and for this purpose “livestock breeding and keeping” does not include activities the main purpose of which is entertainment;

[<sup>F1</sup>“bus” means a motor vehicle which is designed or adapted to travel along roads and to carry more than eight passengers but which is not a tramcar;]

“the Commission” means the Health and Safety Commission;

“common parts” means those parts of premises used in common by, or for providing common services to or common facilities for, the occupiers of the premises;

“construction work” and “contractor” have the meanings assigned to them by regulation 2(1) of the Construction (Design and Management) Regulations [<sup>F2</sup>2007];

“dock premises” has the meaning assigned to it by regulation 2(1) of the Docks Regulations 1988(2);

“electricity system” does not include the consumer’s installation within the meaning of regulation 3(1) of the Electricity Supply Regulations 1988(3);

“the Executive” means the Health and Safety Executive;

“fairground” means such part of premises as is for the time being used wholly or mainly for the operation of any fairground equipment, other than a coin-operated ride, non-powered children’s playground equipment, swimming pool slide, go-kart, or plant designed to be used by members of the public for entertainment purposes for bouncing upon;

“gas” has the meaning assigned to it by section 48 of the Gas Act 1986(4);

“gas fitting” has the meaning assigned to it by section 48 of the Gas Act 1986;

“gas system” does not include a portable or mobile appliance supplied with gas from a cylinder, or the cylinder, pipes and other fittings used for supplying gas to that appliance;

[<sup>F3</sup>“guided bus system” means a system of transport, used wholly or mainly for the carriage of passengers, that employs buses which for some or all of the time when they are in operation—

(a) travel along roads; and

(b) are guided (whether while on the road or at other times) by means of—

(i) apparatus, a structure or other device which is fixed and not part of the bus; or

(2) S.I. 1988/1655.

(3) S.I. 1988/1057.

(4) 1986 c. 44.

(ii) a guidance system which is automatic;

“guided transport” means a system of transport, used wholly or mainly for the carriage of passengers, employing vehicles which for some or all of the time when they are in operation are guided by means of—

- (a) rails, beams, slots, guides or other apparatus, structures or devices which are fixed and not part of the vehicle; or
- (b) a guidance system which is automatic;

and for this purpose “vehicle” includes a mobile traction unit;]

“ionising radiation” has the meaning assigned to it by regulation 2(1) of [<sup>F4</sup>the Ionising Radiations Regulations 1999 [S.I. 1999/xxxx]];

“livestock” means any creature kept for the production of food, wool, skins or fur or for the purpose of any agricultural activity;

“local authority” means—

- (a) in relation to England, a county council so far as they are the council for an area for which there are no district councils, a district council, a London borough council, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple, the Under-Treasurer of the Middle Temple or the Council of the Isles of Scilly;
- (b) in relation to Scotland, the council for a local government area; and
- (c) in relation to Wales, a county council or a county borough council;

“mine” has the meaning assigned to it by section 180 of the Mines and Quarries Act 1954(5)[<sup>F5</sup>but, notwithstanding subsection (5) of that section, does not include any railway serving the mine unless and to the extent that the railway is located within the curtilage of the mine;]

“office activities” includes any activity for the purposes of administration, clerical work, handling money, telephone and telegraph operating and the production of computer software by the use of computers; and for this purpose “clerical work” includes writing, book-keeping, sorting papers, filing, typing, duplicating, machine calculating, drawing and the editorial preparation of matter for publication except where that preparation is on the premises where newspapers, magazines, periodicals or books are printed;

“pleasure craft” has the meaning assigned to it by regulation 2(1) of the Docks Regulations 1988;

“preparation dangerous for supply” has the meaning assigned to it by regulation 2(1) of the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994(6);

<sup>F6</sup> ...

[<sup>F7</sup>“quarry” has the meaning assigned to it by regulation 3 of the Quarries Regulations 1999;]

[<sup>F8</sup>“railway” means any system of transport the operation of which is specified in regulation 3(2) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006;]

[<sup>F9</sup>“road”—

- (a) in England and Wales, means any length of highway or of any other road to which the public has access, and includes bridges over which a road passes; and
- (b) in Scotland, has the same meaning as in the Roads (Scotland) Act 1984;]

(5) 1954 c. 70.

(6) S.I. 1994/3247.

*Status: Point in time view as at 06/04/2007.*

*Changes to legislation: There are currently no known outstanding effects for the The Health and Safety (Enforcing Authority) Regulations 1998. (See end of Document for details)*

“substance dangerous for supply” has the meaning assigned to it by regulation 2(1) of the Chemicals (Hazard Information and Packaging for Supply) Regulations 1994;

[<sup>F10</sup>“trolley vehicle system” means a system of transport by vehicles constructed or adapted for use on roads without rails under electric power transmitted to them by overhead wires (whether or not there is in addition a source of power on board the vehicles);]

“veterinary surgery” has the meaning assigned to it by section 27 of the Veterinary Surgeons Act 1966(7);

“work” in relation to a gas fitting has the meaning assigned to it by regulation 2(1) of the Gas Safety (Installation and Use) Regulations 1994(8);

“zoo” has the meaning assigned to it by section 1(2) of the Zoo Licensing Act 1981(9).

(2) In these Regulations (except regulation 4(7)), unless the context otherwise requires, any reference to the enforcing authority for premises or parts of premises is a reference to the enforcing authority for the relevant statutory provisions in relation to those premises or parts, as the case may be, and to any activity carried on in them.

(3) In these Regulations, unless the context otherwise requires, any reference to—

- (a) a numbered regulation or Schedule is a reference to the regulation of or Schedule to these Regulations so numbered; and
- (b) a numbered paragraph is a reference to the paragraph so numbered in the regulation or Schedule in which that reference appears.

#### Textual Amendments

- F1** Words in [reg. 2\(1\)](#) inserted (1.4.2006) by [The Health and Safety \(Enforcing Authority for Railways and Other Guided Transport Systems\) Regulations 2006 \(S.I. 2006/557\)](#), [reg. 1](#), [Sch. para. 6\(2\)\(a\)](#)
- F2** Word in [reg. 2\(1\)](#) substituted (6.4.2007) by [The Construction \(Design and Management\) Regulations 2007 \(S.I. 2007/320\)](#), [reg. 1](#), [Sch. 5](#) (with [reg. 3](#))
- F3** Words in [reg. 2\(1\)](#) inserted (1.4.2006) by [The Health and Safety \(Enforcing Authority for Railways and Other Guided Transport Systems\) Regulations 2006 \(S.I. 2006/557\)](#), [reg. 1](#), [Sch. para. 6\(2\)\(b\)](#)
- F4** Words in [reg. 2\(1\)](#) substituted (1.1.2000) by [The Ionising Radiations Regulations 1999 \(S.I. 1999/3232\)](#), [reg. 1\(a\)](#), [Sch. 9 para. 8\(a\)](#) (with [reg. 3](#))
- F5** Words in [reg. 2\(1\)](#) inserted (1.4.2006) by [The Health and Safety \(Enforcing Authority for Railways and Other Guided Transport Systems\) Regulations 2006 \(S.I. 2006/557\)](#), [reg. 1](#), [Sch. para. 6\(2\)\(c\)](#)
- F6** Words in [reg. 2\(1\)](#) omitted (1.4.2006) by virtue of [The Health and Safety \(Enforcing Authority for Railways and Other Guided Transport Systems\) Regulations 2006 \(S.I. 2006/557\)](#), [reg. 1](#), [Sch. para. 6\(2\)\(d\)](#)
- F7** Words in [reg. 2\(1\)](#) substituted (1.1.2000) by [The Quarries Regulations 1999 \(S.I. 1999/2024\)](#), [reg. 1\(1\)](#), [Sch. 5 Pt. 2](#)
- F8** Words in [reg. 2\(1\)](#) substituted (1.4.2006) by [The Health and Safety \(Enforcing Authority for Railways and Other Guided Transport Systems\) Regulations 2006 \(S.I. 2006/557\)](#), [reg. 1](#), [Sch. para. 6\(2\)\(e\)](#)
- F9** Words in [reg. 2\(1\)](#) inserted (1.4.2006) by [The Health and Safety \(Enforcing Authority for Railways and Other Guided Transport Systems\) Regulations 2006 \(S.I. 2006/557\)](#), [reg. 1](#), [Sch. para. 6\(2\)\(f\)](#)
- F10** Words in [reg. 2\(1\)](#) inserted (1.4.2006) by [The Health and Safety \(Enforcing Authority for Railways and Other Guided Transport Systems\) Regulations 2006 \(S.I. 2006/557\)](#), [reg. 1](#), [Sch. para. 6\(2\)\(g\)](#)

#### Commencement Information

- I2** [Reg. 2](#) in force at 1.4.1998, see [reg. 1](#)

(7) 1966 c. 36.

(8) S.I. 1994/1886.

(9) 1981 c. 37.

### Local authorities to be enforcing authorities in certain cases

3.—(1) Where the main activity carried on in non-domestic premises is specified in Schedule 1, the local authority for the area in which those premises are situated shall be the enforcing authority for them, and the Executive shall be the enforcing authority in any other case including the common parts of domestic premises.

(2) Where such premises are occupied by more than one occupier each part separately occupied shall be regarded as being separate premises for the purposes of paragraph (1).

(3) While a vehicle is parked in connection with the sale from it of food, drink or other articles the vehicle together with its pitch shall be regarded as separate premises for the purposes of paragraph (1).

(4) Where paragraph (2) applies, the local authority shall be the enforcing authority for the common parts, except that—

- (a) if the Executive is the enforcing authority for—
  - (i) all other parts of the premises, the Executive shall be the enforcing authority for the common parts;
  - (ii) any other part of the premises and the occupier of that part has any obligations under the relevant statutory provisions for any matters appertaining to the common parts, the Executive shall be the enforcing authority for those provisions in respect of such matters;
- (b) in the case of land within the perimeter of an airport the Executive shall be the enforcing authority for the common parts—
  - (i) which are not within a building; or
  - (ii) to which passengers are admitted but other members of the public are not admitted.

(5) Paragraph (2) shall not apply to—

- (a) the tunnel system within the meaning it would have in section 1(7) of the Channel Tunnel Act 1987<sup>(10)</sup> if the words “to be” did not appear;
- (b) an offshore installation within the meaning of regulation 3 of the Offshore Installations and Pipeline Works (Management and Administration) Regulation 1995<sup>(11)</sup>;
- (c) a building or construction site, that is to say, premises where the only activities being undertaken are construction work and activities for the purposes of or in connection with such work;
- (d) the campus of a university, polytechnic, college, school or similar educational establishment;
- (e) a hospital;

and the Executive shall be the enforcing authority for the whole of any such premises.

(6) Notwithstanding paragraph (4), the [F11Office of Rail Regulation] shall be the enforcing authority for the common parts in a railway station or terminal or in a goods yard which is served by a railway.

(7) This regulation shall have effect subject to regulations 4, 5 and 6.

<sup>(10)</sup> 1987 c. 53.

<sup>(11)</sup> S.I. 1995/738.

*Status: Point in time view as at 06/04/2007.*

*Changes to legislation: There are currently no known outstanding effects for the The Health and Safety (Enforcing Authority) Regulations 1998. (See end of Document for details)*

### Textual Amendments

**F11** Words in [reg. 3\(6\)](#) substituted (1.4.2006) by [The Health and Safety \(Enforcing Authority for Railways and Other Guided Transport Systems\) Regulations 2006 \(S.I. 2006/557\)](#), [reg. 1](#), [Sch. para. 6\(3\)](#)

### Commencement Information

**I3** Reg. 3 in force at 1.4.1998, see [reg. 1](#)

### Exceptions

4.—(1) The Executive shall be the enforcing authority for—

- (a) the enforcement of any of the relevant statutory provisions against a body specified in paragraph (3) or the officers or servants of such a body;
- (b) any part of premises occupied by such a body.

(2) Where premises are mainly occupied by a body specified in paragraph (3) and are partly occupied by another person for the purpose of providing services at the premises for that body, the Executive shall be the enforcing authority for the part of the premises occupied by that other person.

(3) The bodies referred to in paragraphs (1) and (2) are—

- (a) a county council;
- (b) any other local authority as defined in regulation 2;
- (c) a parish council in England or a community council in Wales or Scotland;
- (d) a police authority or the Receiver for the Metropolitan Police District;
- (e) [<sup>F12</sup>a [<sup>F13</sup>relevant authority (as defined in section 6 of the [Fire \(Scotland\) Act 2005 \(asp 5\)](#)]]; [<sup>F12</sup>a fire and rescue authority under the Fire and Rescue Services Act 2004;]
- (f) a headquarters or an organisation designated for the purposes of the International Headquarters and Defence Organisation Act 1964(**12**); or a service authority of a visiting force within the meaning of section 12 of the Visiting Forces Act 1952(**13**);
- (g) the United Kingdom Atomic Energy Authority;
- (h) the Crown, but regulation 3 shall apply to any part of premises occupied by the Executive and to any activity carried on there.

(4) The Executive shall be the enforcing authority for—

- (a) section 6 of the 1974 Act;
- (b) the other relevant statutory provisions in respect of any activity specified in Schedule 2 (whether or not it is the main activity carried on in premises).

(5) Regulation 3 and the preceding provisions of this regulation shall have effect subject to any provisions made for enforcement responsibility by other regulations made under the 1974 Act or by any of the existing statutory provisions.

(6) The preceding provisions of this regulation shall have effect subject to regulations 5 and 6.

[<sup>F14</sup>(7) Notwithstanding the preceding provisions of this regulation and subject to paragraphs (8) to (10), a licensing authority shall be the enforcing authority for the Manufacture and Storage of Explosives Regulations 2005 (“the 2005 Regulations”) and section 23 of the Explosives Act 1875 —

(12) 1964 c. 5.

(13) 1952 c. 67.

- (a) for a site in relation to which it has granted a person a licence for the manufacture or storage of explosives at that site under regulation 13 of the 2005 Regulations or registered a person in respect of such storage at that site under regulation 11 of those Regulations;
  - (b) where, in relation to a deemed licence or deemed registration, it would have been the licensing authority by virtue of paragraph 1 of Schedule 1 to the 2005 Regulations if an application for a licence or registration had been made under those Regulations; and
  - (c) where, in any other case than those referred to in sub-paragraphs (a) and (b)—
    - (i) it would be the licensing authority by virtue of paragraph 1 of Schedule 1 to those Regulations if an application for a licence or registration is, or should have been, made under those Regulations, or
    - (ii) it would have been the licensing authority had not the requirements of regulation 9(1) or, as the case may be, 10(1) been disapplied by virtue of any of the provisions of, respectively, regulation 9(2) or 10(2) applying in the case concerned.
- (8) The Executive shall be the enforcing authority for the 2005 Regulations in respect of the manufacture of ammonium nitrate blasting intermediate.
- (9) A licensing authority which is a local authority shall be the enforcing authority for regulation 25 of the 2005 Regulations in the area of that local authority.
- (10) The enforcing authority for regulation 6 of the 2005 Regulations where a person disposes of explosives or decontaminates explosive-contaminated items at a place other than at a site in relation to which a person has a licence to manufacture or store explosives under regulation 13 of the 2005 Regulations or is registered in respect of such storage under regulation 11 of those Regulations, shall be —
- (a) where the disposal or decontamination is carried out by, or on behalf of, a person who holds a licence granted by the Executive under those Regulations in a case in which the assent of the local authority was required under regulation 13(3) of those Regulations before the licence was granted, the Executive;
  - (b) subject to sub-paragraph (a), where the local authority is by virtue of the Health and Safety (Enforcing Authority) Regulations 1998 the enforcing authority for the premises or part of premises at which the disposal or decontamination is carried out, the local authority; or
  - (c) in any other case, the Executive.
- (11) For the purposes of paragraphs (7) to (10), “ammonium nitrate blasting intermediate”, “disposes”, “licence”, “licensing authority”, “registered” and “site” have the same meanings as they are given by regulation 2(1) of the 2005 Regulations and “deemed licence” and “deemed registration” have the same meanings as they are given by regulation 27(19) of those Regulations.]

#### Textual Amendments

- F12** Reg. 4(3)(e) substituted (E.W.) (1.10.2006) by [The Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), art. 1(3), **Sch. 3 para. 5** (with arts. 49, 51) (as amended by S.I. 2006/484, arts. 1(1), 2)
- F13** Words in reg. 4(3)(e) substituted (S.) (2.8.2005) by [The Fire \(Scotland\) Act 2005 \(Consequential Provisions and Modifications\) Order 2005 \(S.I. 2005/2060\)](#), art. 1(2)(f), **Sch. para. 13**
- F14** Reg. 4(7)-(11) substituted for reg. 4(7) (with application in accordance with reg. 3 of the amending S.I.) by [The Manufacture and Storage of Explosives Regulations 2005 \(S.I. 2005/1082\)](#), regs. 1(1), 28(1), **Sch. 5 para. 41**

#### Commencement Information

- I4** Reg. 4 in force at 1.4.1998, see [reg. 1](#)

*Status: Point in time view as at 06/04/2007.*

*Changes to legislation: There are currently no known outstanding effects for the The Health and Safety (Enforcing Authority) Regulations 1998. (See end of Document for details)*

### **Arrangements enabling responsibility for enforcement to be transferred**

5.—(1) The responsibility for enforcing any of the relevant statutory provisions in respect of any particular premises, part of premises, or any activity carried on there may be transferred from the Executive to the local authority or from the local authority to the Executive.

(2) A transfer may be made only by agreement between the enforcing authority which has the current responsibility and the authority to which it proposed to transfer it, or by the Commission.

(3) Where a transfer has been made, the authority to which responsibility has been transferred shall cause notice of the transfer to be given to persons affected by it, and where a transfer has been made by the Commission the Commission shall cause notice of it to be given to both enforcing authorities concerned.

(4) The preceding provisions of this regulation shall not apply to any part of premises occupied by the Crown or to any activity carried on there but responsibility for enforcing any of the relevant statutory provisions in respect of office activities and the premises used for them may be transferred by an agreement between the Executive, the local authority concerned and the Government Department or other public body concerned.

#### **Commencement Information**

**I5** Reg. 5 in force at 1.4.1998, see [reg. 1](#)

### **Arrangements enabling responsibility for enforcement to be assigned in cases of uncertainty**

6.—(1) The responsibility for enforcing any of the relevant statutory provisions in respect of any particular premises, part of premises or any activity carried on there may be assigned to the Executive or to the local authority; and an assignment under this paragraph may be made only by the Executive and the local authority jointly and only where they agree—

- (a) that there is uncertainty in the particular case as to what are their respective responsibilities by virtue of regulations made under section 18(2) of the 1974 Act; and
- (b) which authority is more appropriate to be responsible for enforcement in that case;

and where such an assignment is made the authority to which responsibility has been assigned shall cause notice of assignment to be given to persons affected by it.

(2) For the purpose of removing uncertainty in any particular case as to what are their respective responsibilities by virtue of regulations made under section 18(2) of the 1974 Act either the Executive or the local authority may apply to the Commission and where the Commission considers that there is uncertainty it shall, after considering the circumstances and any views which may have been expressed to them by either enforcing authority or by persons affected, assign responsibility to whichever authority it considers appropriate; and where such an assignment is made the Commission shall cause notice of the assignment to be given to both enforcing authorities concerned and to persons affected by it.

#### **Commencement Information**

**I6** Reg. 6 in force at 1.4.1998, see [reg. 1](#)

### **Revocation of instruments**

7. The instruments specified in column 1 of Schedule 3 are revoked to the extent specified in column 3 of that Schedule.

**Commencement Information**

**I7** Reg. 7 in force at 1.4.1998, see [reg. 1](#)

Signed by authority of the Secretary of State

*Angela Eagle*  
Parliamentary Under Secretary of State,  
Department of the Environment, Transport and  
the Regions

**Status:** Point in time view as at 06/04/2007.

**Changes to legislation:** There are currently no known outstanding effects for the The Health and Safety (Enforcing Authority) Regulations 1998. (See end of Document for details)

SCHEDULE 1

Regulation 3(1)

MAIN ACTIVITIES WHICH DETERMINE WHETHER LOCAL AUTHORITIES WILL BE ENFORCING AUTHORITIES

- 1. The sale of goods, or the storage of goods for retail or wholesale distribution, except—
  - (a) at container depots where the main activity is the storage of goods in the course of transit to or from dock premises, an airport or a railway;
  - (b) where the main activity is the sale or storage for wholesale distribution of any substance or preparation dangerous for supply;
  - (c) where the main activity is the sale or storage of water or sewage or their by-products or natural or town gas;

and for the purposes of this paragraph where the main activity carried on in premises is the sale and fitting of motor car tyres, exhausts, windscreens or sunroofs the main activity shall be deemed to be the sale of goods.

**Commencement Information**

**I8** Sch. 1 para. 1 in force at 1.4.1998, see [reg. 1](#)

- 2. The display or demonstration of goods at an exhibition for the purposes of offer or advertisement for sale.

**Commencement Information**

**I9** Sch. 1 para. 2 in force at 1.4.1998, see [reg. 1](#)

- 3. Office activities.

**Commencement Information**

**I10** Sch. 1 para. 3 in force at 1.4.1998, see [reg. 1](#)

- 4. Catering services.

**Commencement Information**

**I11** Sch. 1 para. 4 in force at 1.4.1998, see [reg. 1](#)

- 5. The provision of permanent or temporary residential accommodation including the provision of a site for caravans or campers.

**Commencement Information**

**I12** Sch. 1 para. 5 in force at 1.4.1998, see [reg. 1](#)

- 6. Consumer services provided in a shop except dry cleaning or radio and television repairs, and in this paragraph “consumer services” means services of a type ordinarily supplied to persons who receive them otherwise than in the course of a trade, business or other undertaking carried on by them (whether for profit or not).

**Commencement Information**

**I13** Sch. 1 para. 6 in force at 1.4.1998, see [reg. 1](#)

7. Cleaning (wet or dry) in coin operated units in launderettes and similar premises.

**Commencement Information**

**I14** Sch. 1 para. 7 in force at 1.4.1998, see [reg. 1](#)

8. The use of a bath, sauna or solarium, massaging, hair transplanting, skin piercing, manicuring or other cosmetic services and therapeutic treatments, except where they are carried out under the supervision or control of a registered medical practitioner, a dentist registered under the Dentists Act 1984(14), a physiotherapist, an osteopath or a chiropractor.

**Commencement Information**

**I15** Sch. 1 para. 8 in force at 1.4.1998, see [reg. 1](#)

9. The practice or presentation of the arts, sports, games, entertainment or other cultural or recreational activities except where the main activity is the exhibition of a cave to the public.

**Commencement Information**

**I16** Sch. 1 para. 9 in force at 1.4.1998, see [reg. 1](#)

10. The hiring out of pleasure craft for use on inland waters.

**Commencement Information**

**I17** Sch. 1 para. 10 in force at 1.4.1998, see [reg. 1](#)

11. The care, treatment, accommodation or exhibition of animals, birds or other creatures, except where the main activity is horse breeding or horse training at a stable, or is an agricultural activity or veterinary surgery.

**Commencement Information**

**I18** Sch. 1 para. 11 in force at 1.4.1998, see [reg. 1](#)

12. The activities of an undertaker, except where the main activity is embalming or the making of coffins.

**Commencement Information**

**I19** Sch. 1 para. 12 in force at 1.4.1998, see [reg. 1](#)

13. Church worship or religious meetings.

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(14) 1984 c. 23.

**Status:** Point in time view as at 06/04/2007.

**Changes to legislation:** There are currently no known outstanding effects for the The Health and Safety (Enforcing Authority) Regulations 1998. (See end of Document for details)

**Commencement Information**

**I20** Sch. 1 para. 13 in force at 1.4.1998, see [reg. 1](#)

14. The provision of car parking facilities within the perimeter of an airport.

**Commencement Information**

**I21** Sch. 1 para. 14 in force at 1.4.1998, see [reg. 1](#)

15. The provision of child care, or playgroup or nursery facilities.

**Commencement Information**

**I22** Sch. 1 para. 15 in force at 1.4.1998, see [reg. 1](#)

SCHEDULE 2

Regulation 4(4)(b)

ACTIVITIES IN RESPECT OF WHICH THE HEALTH AND SAFETY EXECUTIVE IS THE ENFORCING AUTHORITY

1. Any activity in a mine or quarry other than a quarry in respect of which notice of abandonment has been given under [<sup>F15</sup>regulation 45(1) of the Quarries Regulations 1999].

**Textual Amendments**

**F15** Words in Sch. 2 para. 1 substituted (1.1.2000) by [The Quarries Regulations 1999 \(S.I. 1999/2024\)](#), [reg. 1\(1\)](#), [Sch. 5 Pt. 2](#)

**Commencement Information**

**I23** Sch. 2 para. 1 in force at 1.4.1998, see [reg. 1](#)

2. Any activity in a fairground.

**Commencement Information**

**I24** Sch. 2 para. 2 in force at 1.4.1998, see [reg. 1](#)

3. Any activity in premises occupied by a radio, television or film undertaking in which the activity of broadcasting, recording or filming is carried on, and the activity of broadcasting, recording or filming wherever carried on, and for this purpose “film” includes video.

**Commencement Information**

**I25** Sch. 2 para. 3 in force at 1.4.1998, see [reg. 1](#)

4. The following activities carried on at any premises by persons who do not normally work in the premises—

- (a) construction work if—
- <sup>F16</sup>(i) the project which includes the work is notifiable within the meaning of regulation 2(3) of the Construction (Design and Management) Regulations 2007; or
  - (ii) the whole or part of the work contracted to be undertaken by the contractor at the premises is to the external fabric or other external part of a building or structure; or
  - (iii) it is carried out in a physically segregated area of the premises, the activities normally carried out in that area have been suspended for the purpose of enabling the construction work to be carried out, the contractor has authority to exclude from that area persons who are not attending in connection with the carrying out of the work and the work is not the maintenance of insulation on pipes, boilers or other parts of heating or water systems or its removal from them;
- (b) the installation, maintenance or repair of any gas system, or any work in relation to a gas fitting;
- (c) the installation, maintenance or repair of electricity systems;
- (d) work with ionising radiations except work in one or more of the categories set out in <sup>F17</sup>Schedule 1 of the Ionising Radiations Regulations 1999 [S.I. 1999/xxxx]].

#### Textual Amendments

- F16** Words in Sch. 2 para. 4(a)(i) substituted (6.4.2007) by The Construction (Design and Management) Regulations 2007 (S.I. 2007/320), reg. 1, Sch. 5 (with reg. 3)
- F17** Words in Sch. 2 para. 4(d) substituted (1.1.2000) by The Ionising Radiations Regulations 1999 (S.I. 1999/3232), reg. 1(a), Sch. 9 para. 8(b) (with reg. 3)

#### Commencement Information

- I26** Sch. 2 para. 4 in force at 1.4.1998, see reg. 1

<sup>F18</sup>4A. The reference in paragraph 4(a)(iii) to a physically segregated area does not include an area segregated only in order to prevent the escape of asbestos; and in this paragraph “asbestos” has the meaning assigned to it by regulation 2(1) of <sup>F19</sup>the Control of Asbestos Regulations 2006].

#### Textual Amendments

- F18** Sch. 2 para. 4A inserted (21.11.2002) by Control of Asbestos at Work Regulations 2002 (S.I. 2002/2675), regs. 1, 27(2)
- F19** Words in Sch. 2 para. 4A substituted (13.11.2006) by The Control of Asbestos Regulations 2006 (S.I. 2006/2739), regs. 1, 36(2), Sch. 5

5. The use of ionising radiations for medical exposure (within the meaning of regulation 2(1) of <sup>F20</sup>the Ionising Radiations Regulations 1999 [S.I.1999/xxxx])).

#### Textual Amendments

- F20** Words in Sch. 2 para. 5 substituted (1.1.2000) by The Ionising Radiations Regulations 1999 (S.I. 1999/3232), reg. 1(a), Sch. 9 para. 8(c) (with reg. 3)

**Status:** Point in time view as at 06/04/2007.

**Changes to legislation:** There are currently no known outstanding effects for the The Health and Safety (Enforcing Authority) Regulations 1998. (See end of Document for details)

**Commencement Information**

**I27** Sch. 2 para. 5 in force at 1.4.1998, see [reg. 1](#)

**6.** Any activity in premises occupied by a radiography undertaking in which there is carried on any work with ionising radiations.

**Commencement Information**

**I28** Sch. 2 para. 6 in force at 1.4.1998, see [reg. 1](#)

**7.** Agricultural activities, and any activity at an agricultural show which involves the handling of livestock or the working of agricultural equipment.

**Commencement Information**

**I29** Sch. 2 para. 7 in force at 1.4.1998, see [reg. 1](#)

**8.** Any activity on board a sea-going ship.

**Commencement Information**

**I30** Sch. 2 para. 8 in force at 1.4.1998, see [reg. 1](#)

**9.** Any activity in relation to a ski slope, ski lift, ski tow or cable car.

**Commencement Information**

**I31** Sch. 2 para. 9 in force at 1.4.1998, see [reg. 1](#)

**10.** Fish, maggot and game breeding except in a zoo.

**Commencement Information**

**I32** Sch. 2 para. 10 in force at 1.4.1998, see [reg. 1](#)

**11.** Any activity in relation to a pipeline within the meaning of regulation 3 of the Pipelines Safety Regulations 1996<sup>(15)</sup>.

**Commencement Information**

**I33** Sch. 2 para. 11 in force at 1.4.1998, see [reg. 1](#)

[<sup>F21</sup>**12.** The operation of—

- (a) a guided bus system; or
- (b) any other system of guided transport, other than a railway, that employs vehicles which for some or all of the time when they are in operation travel along roads.]

<sup>(15)</sup> S.I. 1996/825.

**Textual Amendments**

**F21** Sch. 2 para. 12 substituted (1.4.2006) by The Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006 (S.I. 2006/557), reg. 1, **Sch. para. 6(4)(a)**

[<sup>F22</sup>**13.** The operation of a trolley vehicle system.]

**Textual Amendments**

**F22** Sch. 2 para. 13 inserted (1.4.2006) by The Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006 (S.I. 2006/557), reg. 1, **Sch. para. 6(4)(b)**

SCHEDULE 3

Regulation 7

REVOCATION OF INSTRUMENTS

**Commencement Information**

**I34** Sch. 3 in force at 1.4.1998, see **reg. 1**

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Reference</i>	<i>(3)</i> <i>Extent of revocation</i>
The Health and Safety (Enforcing Authority) Regulations 1989	S.I.1989/1903	The whole Regulations
F23	F23	F23
...	...	...
The Chemicals (Hazard Information and Packaging for Supply) Regulations 1994	S.I.1994/3247	Regulation 19(7)
The Railway Safety (Miscellaneous Provisions) Regulations 1997	S.I.1997/553	Regulation 11
F23	F23	F23
...	...	...

**Textual Amendments**

**F23** Words in Sch. 3 revoked (6.4.2007) by The Construction (Design and Management) Regulations 2007 (S.I. 2007/320), reg. 1, **Sch. 4** (with reg. 3)

**Status:** Point in time view as at 06/04/2007.

**Changes to legislation:** There are currently no known outstanding effects for the The Health and Safety (Enforcing Authority) Regulations 1998. (See end of Document for details)

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

1. These Regulations re-enact with amendments the Health and Safety (Enforcing Authority) Regulations 1989 (“the 1989 Regulations”) as amended. The 1989 Regulations made provision with respect to enforcement by local authorities of the Health and Safety at Work etc. Act 1974 (“the 1974 Act”) and the other relevant statutory provisions within the meaning of that Act. In addition to minor and drafting amendments, these Regulations make the following changes of substance.

2. In regulation 2(1)—

- (a) activities at a garden centre or other shop are excluded from the definition of “agricultural activities”;
- (b) in the definition of “fairground” the reference to fairground equipment no longer includes a go-kart or bouncy castle.

3. The Regulations re-enact the main provisions of the 1989 Regulations which provided that where the main activity carried on in any premises was specified in Schedule 1 to these Regulations then, subject to specified exceptions, the local authority was the enforcing authority in respect of all activities carried on in those premises (*regulation 3(1)*). Schedule 1—

- (a) in specifying the sale of goods or storage of goods for retail or wholesale distribution as a main activity does not now specify its being in part of the businesses of a transport undertaking as an exception;
- (b) in specifying the practice or presentation of the arts, sports, games, entertainment or other cultural or recreational activities as a main activity, does not now specify its being carried on in a museum, art gallery or theatre as an exception;
- (c) now specifies the provision of car parking facilities within the perimeter of an airport, and the provision of child care, or playgroup or nursery facilities as main activities.

4. The Regulations now identify common parts of domestic premises as a case in which the Health and Safety Executive (“the Executive”) is the enforcing authority (*regulation 3(1)*).

5. The Regulations introduce a new provision for a vehicle parked in connection with the sale from it of food, drink or other articles. The vehicle together with its pitch are to be regarded as separate premises for the purposes of regulation 3(1) (*regulation 3(2)*).

6. The Regulations re-enact provision (as regulation 3(2) and (4)) that, where the Executive is the enforcing authority, subject to exceptions specified in paragraph (5) each part separately occupied is to be regarded as separate premises for the purpose of enforcement allocation; and that the local authority is the enforcing authority subject to exceptions specified in paragraph (4); but

- (a) the exceptions specified in paragraph (4) now include certain common parts in the case of land within the perimeter of an airport; and
- (b) the exceptions in paragraph (5) do not now include land within the perimeter of an airport.

7. Regulation 4 is re-enacted save that the provision in the 1989 Regulations which made the Executive the enforcing authority for premises where the main activity is indoor sport if specified conditions are met has not been re-enacted.

**Status:** Point in time view as at 06/04/2007.

**Changes to legislation:** There are currently no known outstanding effects for the The Health and Safety (Enforcing Authority) Regulations 1998. (See end of Document for details)

**8.** The activities set out in Schedule 2 are allocated for enforcement by the Executive even though the main activity carried on in the premises is listed in Schedule 1 (*regulation 4(4)(b)*). Schedule 2 now includes any activity in relation to a pipeline, and the operation of a railway.

**9.** The regulations revoke the 1989 Regulations and amending provisions (*regulation 7 and Schedule 3*).

**10.** A cost benefit assessment prepared in respect of these Regulations is available from the Health and Safety Executive, Local Authority Unit, Rose Court, 2 Southwark Bridge, London SE1 9HS.

**Status:**

Point in time view as at 06/04/2007.

**Changes to legislation:**

There are currently no known outstanding effects for the The Health and Safety (Enforcing Authority) Regulations 1998.