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STATUTORY INSTRUMENTS

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**2020 No. 40**

**The Carcinogens and Mutagens (Miscellaneous Amendments) Regulations 2020**

**Citation and commencement**

1. These Regulations may be cited as the Carcinogens and Mutagens (Miscellaneous Amendments) Regulations 2020 and come into force on 2nd March 2020.

**Interpretation**

2. In these Regulations, “the 2007 Regulations” means the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007(1).

**Amendment of regulation 14 of the 2007 Regulations**

3.—(1) Regulation 14 of the 2007 Regulations (health surveillance)(2) is amended as follows.

(2) After paragraph (4) insert—

“(4A) Where the doctor or body responsible for the health surveillance of a worker records in that worker’s individual medical record, kept pursuant to paragraph (4), that the health surveillance of the worker should continue after exposure has ended, the worker’s employer must ensure that, while the worker is employed by the employer, the health surveillance of that worker continues for as long as recommended by the doctor or body.

(4B) The worker’s employer ceases to be under an obligation to ensure that health surveillance continues for as long as recommended by the doctor or body when a doctor or body responsible for the health surveillance of the worker records in the worker’s individual medical record that this is no longer recommended.”

**Introduction of a statutory review requirement in the 2007 Regulations**

4. After regulation 25 (prohibition on levy) of the 2007 Regulations insert—

**“26. Review**

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

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

(2) The first report must be published before 2nd March 2025.

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

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(1) [S.I. 2007/3100](#), amended by [S.I. 2010/1110](#), [2015/21](#). There are prospective amendments to be made by [S.I. 2018/1202](#).

(2) Contravention of, or failure to comply with, regulation 14 is an offence under regulation 17 of [S.I. 2007/3100](#). In England and Wales, section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) removed the limit on a fine imposed following summary conviction so that the offence is punishable by a fine of any amount.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(3) requires that a report published under this regulation must, in particular—

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

(5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015(4) (see section 32 of that Act).”

#### **Amendment of Schedule 1 to the 2007 Regulations**

5.—(1) Schedule 1 to the 2007 Regulations (other substances and processes to which the definition of carcinogen relates) is amended as follows.

(2) In the list of substances and processes to which the definition of carcinogen relates, after “Hardwood dusts.”, insert—

“Work involving exposure to respirable crystalline silica dust generated by a work process.”

#### **Amendment of Schedule 2 to the 2007 Regulations**

6.—(1) Schedule 2 (table of limit values) is amended as follows.

(2) For the table of limit values in Schedule 2, substitute the table in the Schedule to these Regulations.

#### **Amendment of the Mines Regulations 2014**

7.—(1) The Mines Regulations 2014(5) are amended as follows.

(2) In regulation 2(1) for the definition of “action level” substitute—

““action level” means, in relation to respirable dust, a concentration in air equal to or greater than 3mg/m<sup>3</sup> as a time-weighted average over a 40 hour period;”.

(3) Omit regulation 44.

(4) In regulation 45—

- (a) in paragraph (5) omit “and respirable crystalline silica”;
- (b) in paragraph (6) omit “or respirable crystalline silica”;
- (c) in paragraph (6)(a) omit “relevant”.

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(3) 2015 c. 26.

(4) Section 30(3) was amended by section 19 of the Enterprise Act 2016 (c. 12) and paragraph 36 of Schedule 8 to the European Union (Withdrawal) Act 2018 (c. 16).

(5) S.I. 2014/3248.

Signed by authority of the Secretary of State for Transport

20th January 2020

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