

# S.I. No. 504/1998 - Safety, Health and Welfare At Work (Children and Young Persons) Regulations, 1998

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I, Tom Kitt, Minister of State at the Department of Enterprise, Trade and Employment, in exercise of the powers conferred on me by [section 28](#) of the [Safety, Health and Welfare at Work Act, 1989](#) (No. 7 of 1989), in relation to matters set out in paragraphs (1), (2), (5), (13), (14), (16), (21), (23) to (28), (32), (36) and (37) of the Fourth Schedule of that Act, the Labour (Transfer of Departmental Administration and Ministerial Functions) Order, 1993 ( [S.I. No. 18 of 1993](#) ), as adapted by the Enterprise and Employment (Alteration of Name of Department and Title of Minister) Order, 1997 ( [S.I. No. 305 of 1997](#) ), and the Enterprise, Trade and Employment (Delegation of Ministerial Functions) (No. 2) Order, 1997 ( [S.I. No. 330 of 1997](#) ), and after consultation with the National Authority for Occupational Safety and Health, hereby make the following Regulations:-

## Citation and Commencement

1. (1) These Regulations may be cited as the Safety, Health and Welfare at Work (Children and Young Persons) Regulations, 1998.

(2) These Regulations shall come into operation on the 18 day of December, 1998.

## Interpretation

2. (1) In these Regulations -

"child" means a person who is under 16 years of age or the school leaving age whichever is the higher;

"the Council Directive" means Council Directive No. 94/33/EC of 22 June 1994<sup>1</sup> on the protection of young people at work;

<sup>1</sup> O.J. No. L 216, 20.8.94, p. 12

"night work" means -

(a) in the case of a child, any work between 8 p.m. on any one day and 8 a.m. on the following day,

(b) in the case of a young person, the hours mentioned in paragraph (b) of [section 6](#) (1) of the [Protection of Young Persons \(Employment\) Act, 1996](#) , (No. 16 of 1996), as qualified by that section and sections 7 and 8 thereof;

"the Regulations of 1993" means the Safety, Health and Welfare at Work (General Application) Regulations, 1993, ( [S.I. No. 44 of 1993](#) );

"risk assessment" means the assessment of a risk referred to in Regulation 3 (a);

"the school leaving age" means the age at which the [School Attendance Act, 1926](#) , ceases to apply or in lieu thereof any age set down by or under any enactment, passed and in operation after the passing of the [Protection of Young Persons \(Employment\) Act, 1996](#) , (No. 16 of 1996) as the minimum age at which compulsory full-time schooling ends;

"young person" means a person who has reached 16 years of age or the school-leaving age (whichever is higher) but is less than 18 years of age.

(2) A word or expression used in these Regulations which is also used in the Council Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Council Directive.

(3) In these Regulations, unless otherwise indicated -

(a) a reference to a Regulation is to a Regulation of these Regulations,

(b) a reference to a Schedule is to a Schedule to these Regulations, and

(c) a reference to a paragraph or a subparagraph is to a paragraph or a subparagraph of the Regulation in which the reference occurs.

Duties of Employer

**3.** It shall be the duty of every employer:-

(a) without prejudice to the provisions of Regulation 10 of the Regulations of 1993, to assess any risk to the safety or health of a child or young person and any specific risk to their safety, health and development arising from -

(i) his or her lack of experience, absence of awareness of existing or potential risks or lack of maturity,

(ii) any work activity likely to involve a risk of harmful exposure to the physical, biological and chemical agents specified in Part I of the Schedule, and

(iii) the processes and work specified in Part II of the Schedule and to take the preventive and protective measures necessary;

(b) to carry out a risk assessment before employing a child or young person and whenever there is a major change in the place of work which could affect the safety or health of such child or young person;

(c) when carrying out a risk assessment to take account of the following -

(i) the fitting-out and the layout of the place of work and of the workstation,

(ii) the nature, degree and exposure to any physical, chemical or biological agent at the place of work,

(iii) the form, range and use of work equipment, in particular agents, machines, apparatus and devices, and the way in which they are handled,

(iv) the arrangement of work processes and of work operations at the place of work and of the way in which these may be organised in combination for the purposes of carrying out work, and

(v) the training, instruction and level of supervision provided to a child or young person at the place of work;

(d) where a risk assessment reveals that the work involved is work which -

(i) is beyond the physical or psychological capacity of the child or young person concerned,

(ii) involves harmful exposure to agents which are toxic, carcinogenic, cause heritable genetic damage, or harm to the unborn child or which in any other way chronically affects human health,

(iii) involves harmful exposure to radiation,

(iv) involves the risk of accidents which it may be assumed cannot be recognised or avoided by a child or young person owing to insufficient attention to safety or lack of experience or training, or

(v) presents a risk to health from exposure to extreme heat or cold and to noise or vibration,

not to employ such child or young person at such work;

(e) in taking the protective and preventive measures in accordance with paragraph (a) and as regards planning for and implementing measures to monitor and protect the safety and health of a child or young person, to take account of Regulation 8 of the Regulations of 1993;

(f) without prejudice to the provisions of Regulation 11 of the Regulations of 1993, to inform a child or young person of any risk identified in accordance with paragraph (a) and of the preventive and protective measures taken and, in the case of a child, to inform the parent or guardian of such child of such risk and such preventive and protective measures;

(g) where a risk assessment reveals a risk to safety or health or to the physical or mental development of a child or young person, to make available health surveillance in accordance with Regulation 15 of the Regulations of 1993;

(h) to make available to a child or young person a free assessment of his or her health and capabilities before assignment to night work and at regular intervals thereafter;

(i) to inform a child or young person of the result of any health surveillance or health assessment carried out in accordance with paragraphs (g) or (h) and, in the case of a child, to inform the parent or guardian of such child of the results of any health surveillance or health assessment.

## SCHEDULE

### Regulation 3

Non-exhaustive guide list of agents, processes and work

## PART I

### Agents

#### *1. Physical Agents*

(a) Ionizing radiation;

(b) Work in a high-pressure atmosphere such as in pressurized containers or diving;

#### *2. Biological agents*

(a) Biological agents of risk groups 3 and 4 within the meaning of Regulation 2(1) of the Safety, Health and Welfare at Work (Biological Agents) Regulations, 1994, ( [S.I. No. 146 of 1994](#) );

#### *3. Chemical agents*

(a) Substances and preparations classified under the European Communities (Classification, Packaging, Labelling and Notification of Dangerous Substances) Regulations, 1994, ( [S.I. No. 77 of 1994](#) ) as toxic (T), very toxic (Tx), corrosive (C) or explosive (E);

(b) Substances and preparations classified under the European Communities

(Classification, Packaging, Labelling and Notification of Dangerous Substances) Regulations, 1994, ( [S.I. No. 77 of 1994](#) ), and the European Communities (Classification, Packaging and Labelling of Dangerous Preparations) Regulations, 1992, ( [S.I. No. 393 of 1992](#) ), as harmful (Xn) and with one or more of the following risk phrases:

- danger of very serious irreversible effects (R39)
- possible risk of irreversible effects (R40)
- may cause sensitization by inhalation (R42)
- may cause sensitization by skin contact (R43)
- may cause cancer (R45)
- may cause heritable genetic damage (R46)
- danger of serious damage to health by prolonged exposure (R48)
- may impair fertility (R60)
- may cause harm to the unborn child (R61);

(c) Substances and preparations classified under the European Communities (Classification, Packaging, Labelling and Notification of Dangerous Substances) Regulations, 1994, ( [S.I. No. 77 of 1994](#) ), and the European Communities (Classification, Packaging and Labelling of Dangerous Preparations) Regulations, 1992, ( [S.I. No. 393 of 1992](#) ), as irritant (Xi) and with one or more of the following risk phrases:

- highly flammable (R12)
- may cause sensitization by inhalation (R42)
- may cause sensitization by skin contact (R43)

(d) Substances and preparations referred to in the Safety, Health and Welfare at Work (Carcinogens) Regulations, 1993, ( [S.I. No. 80 of 1993](#) );

(e) Lead and compounds thereof, in as much as the agents in question are absorbable by the human organisms;

(f) Asbestos.

## PART II

### Processes and work

1. Processes at work referred to in the Safety, Health and Welfare at Work (Carcinogens) Regulations, 1993, ( [S.I. No. 80 of 1993](#) ).
2. Manufacture and handling of devices, fireworks or other objects containing explosives.
3. Work with dangerous, fierce or poisonous animals.
4. Animal slaughtering on an industrial scale.
5. Work involving the handling of equipment for the production, storage or application of compressed, liquefied or dissolved gases.
6. Work with vats, tanks, reservoirs or carboys containing chemical agents referred to in item 3 of Part I to this Schedule.
7. Work involving a risk of structural collapse.
8. Work involving high-voltage electrical hazards.
9. Work the pace of which is determined by machinery and involving payment by results.

GIVEN under my hand, this 18th day of December, 1998.

Tom Kitt

Minister of State at the Department of Enterprise, Trade and Employment

### EXPLANATORY NOTE

The purpose of these Regulations is to implement the health and safety aspects of Council Directive 94/33/EC on the protection of young people at work. The other requirements of this Directive have been implemented by the [Protection of Young Persons \(Employment\) Act, 1996](#) .

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