L.N. 91 of 2000

OCCUPATIONAL HEALTH AND SAFETY (PROMOTION) ACT, 1994 (ACT NO. VII OF 1994)

Protection of Young Persons at Work Places Regulations, 2000

IN exercise of the powers conferred by sections 6 and 16 of the Occupational Health and Safety (Promotion) Act, 1994, the Deputy Prime Minister and Minister for Social Policy, in consultation with the Commission for the Promotion of Occupational Health and Safety, has made the following regulations:-

Citation and commencement.

1. (1) The title of these regulations is the Protection of Young Persons at Work Places Regulations, 2000.

(2) These regulations shall come into force on the 1st January, 2002.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires -

"Act" means the Occupational Health and Safety (Promotion) Act, 1994;

"adolescent" means a young person of compulsory school-going age;

"advertising activity" includes any activity during which a child or adolescent acts as a model for clothes or items of clothing;

"child" means a young person under fifteen years of age;

"Director" means the Director responsible for industrial and employment relations;

"employer" includes any person who gives out work to any child, or young person, or who gives out to any parent or guardian of a child or young person, or to any other person any work to be performed by a child or young person;

"parent" includes any person having the legal care and custody of a minor;

"rest period" means any period during which a young person is not at work, is not at his employer's disposal and is not carrying out any work activities or duties;

"training or apprenticeship scheme" means a training or apprenticeship scheme approved in accordance with the provisions of the Employment and Training Services Act, and shall include a work/ training scheme and an in-plant work-experience scheme; Cap. 343.

"young person" means a person under eighteen years of age, and includes a child and an adolescent;

"work" includes any service which is ordinarily performed by one person, or for another person, for gain, and includes service as an outworker or as a self-employed person, but does not include occasional, or short-term work in domestic service in a private household, or work which is not harmful, damaging or dangerous to a child or young person which is carried out in a family undertaking.

(2) In these regulations, words and expressions defined in the Act shall have the same meaning as they have in the Act, and the provisions of these regulations shall be read and construed in conjunction with the Act.

Risk assessment.

3. (1) Before engaging or offering work to any young person, an employer shall carry out an assessment of the occupational health and safety hazards which may be involved at the place of work, and such assessment shall be repeated whenever there is any major change in working conditions.

(2) In carrying out such an assessment, an employer shall take into consideration, as the case may be:

(a) the fitting-out and layout of the workplace and the workstation;

(b) the nature, degree and duration of exposure to physical, chemical and biological agents;

(c) the form, nature, range and use of work equipment, including any machine, apparatus, tool or device used at work, and the way in which they are handled;

(d) the arrangement of work processes and operations, and the way in which these are combined (organization of work); and

(e) the level of training and instruction given to the young person.

(3) Where the assessment reveals a risk to a young person's health or safety, the young person shall be referred for examination by

a medical practitioner, and such young person shall not be liable for any expenses incurred:

Provided that the employer shall inform the practitioner, before the medical examination is carried out, of the results of the risk assessment:

Provided further that such examinations shall be repeated as often as necessary, and as indicated by the nature of the risks to health and safety.

(4) An employer shall inform the young person to whom work is to be assigned of the results of the assessments and of all the measures taken, or that are to be taken, concerning the protection of health and safety at work:

Provided that where work is to be assigned to a child in terms of regulation 8, the employer shall also inform the parents of the child concerned of the results of the assessments and of all the measures taken, or that are to be taken concerning the protection of health and safety at work.

Assigning work.

4. (1) An employer shall ensure that any young person in his employ or to whom he has assigned work, is at all times adequately protected against any hazards which may result from the assessment referred to in the preceding regulation, and, in particular, shall ensure that the work assigned to the young person-

(a) is not beyond such young person's physical or psychological capacity; and

(b) does not involve any exposure to any of the chemical, physical or biological agents or to any of the processes listed in the Schedule to these regulations, or to any other physical, chemical or biological agent which is toxic, carcinogenic, causes heritable genetic damage, causes harm to an unborn child or which in any other way chronically affects human health; and

(c) does not involve a risk of accidents which it may be assumed cannot be recognized or avoided by young persons owing to their insufficient attention to safety or lack of experience or training; and

(d) does not involve a risk to health from extremes of cold or heat, or from noise or vibration.

(2) A young person may be allowed to perform work for a

limited period of time with any of the physical, chemical or biological agents mentioned in the foregoing paragraph, if such work is indispensable for the young person's vocational training, provided that at all times, the work is performed under the supervision of a competent person, and that the young person is adequately protected against risks to his health and safety.

(3) It shall be the duty of an employer who employs or gives out work to a young person to ensure that such young person is at all times:

(a) properly trained for the work assigned, taking into account any health and safety hazards which may be present; and

(b) supervised by a competent person who has been trained in the work activity assigned to a young person, including the use of tools, machinery and equipment, and who is aware of the risks involved and of the preventive measures to be taken.

Hours of work, breaks and rest periods.

5. (1) No young person shall be employed at any time between the hours of 10.00p.m. on any one day and 6.00a.m. of the following day:

Provided that where the young person is a child, the child shall not be given any work between 8.00p.m. on any one day and 6.00a.m. of the following day.

(2) This regulation shall not apply in the case of adolescents or other young persons who are no longer of school-going age:

(a) in respect of any trainees or apprentices covered by a training or apprenticeship scheme;

(b) in respect of any educational activity which forms part of the curriculum of any school or of any educational institution approved in terms of the Education Act; Cap. 327.

(c) in respect of any cultural, artistic, or sports activities approved by the Director;

(d) in respect of any work performed in hospitals or in similar establishments;

(e) in respect of work carried out in the shipping or fisheries sectors; and

(f) in respect of work carried out in the context of the armed forces or the police:

Provided that such work shall only be permitted when there are objective reasons for so doing, or in exceptional cases:

Provided further that, where by reason of the non-applicability of this regulation a young person is given work, such a young person shall not be required to perform any work between the hours of midnight and 4.00a.m of the following day:

Provided further that where the young person is an adolescent such an adolescent shall not be given any work between midnight and 6.00am on any Monday or on any weekday following a public holiday, in any week during which the adolescent is required to attend as a full-time student in any school or educational institution approved under the Education Act.

(3) Prior to being assigned night work, as permitted by this regulation, and at regular intervals thereafter, the adolescent shall be entitled to a free medical examination, unless the work assigned is of an exceptional nature.

Weekly hours of work.

6. (1) No young person shall be employed in the aggregate for more than six days in any one calendar week.

(2) In any case where work may be carried out by an adolescent, such an adolescent shall not be employed for more than four hours in the aggregate on any one day during which he is required to attend school and for more than eight hours in the aggregate on any other day.

(3) No young person shall be employed for more than eight hours a day or more than 40 hours a week.

(4) Where a young person is employed by more than one employer, the working days and working time shall be cumulative and shall not exceed the working days and working times established by virtue of these regulations.

(5) The time spent on training by a young person working under a theoretical and/or practical combined work/training scheme or an in-plant work experience scheme shall be counted as working time.

(6) Where a young person is given work, the young person shall be allowed:

(a) not less than twelve consecutive hours of rest within any period of twenty four hours; and

(b) not less than two days of rest in any calendar week, which, as far as reasonably practicable, shall be consecutive, and as far as reasonably practicable, shall include a Sunday:

Provided that where a young person's daily working time is more than four and a half hours, such young person shall be entitled to a continuous break of at least thirty minutes:

Provided further that where the young person is a child, who is given work in terms of the provisions of these regulations, such child shall be entitled to fourteen consecutive hours of rest in any period of twenty four hours, and two consecutive days of rest of which one day shall be a Sunday.

(7) A child or an adolescent who is given work in terms of regulation 8 (3) shall be entitled to such periods of rest which, as far as reasonably practicable, shall coincide with the school holidays of the child or of the adolescent.

Medical examinations.

7. (1) An employer shall, before taking into his employment any young person, ensure that the young person has been examined by a medical practitioner, who shall certify that the young person is medically fit to carry out the work intended to be assigned to him. The employer shall further ensure that the young person is medically re-examined at least once every twelve months, or at any such other interval as directed by the Director:

Provided that a parent or guardian of any young person shall have the right to be present during such medical examinations.

(2) An employer shall keep a register at the place of work, in which shall be entered the name of the young person, his date of birth, the date on which he commences employment, the result of the medical examination, any condition or recommendation made by the medical practitioner, the name of the medical practitioner, the date when the next medical examination in respect of the young person examined is due, and the date on which such young person ceases to be employed.

(3) The employer shall afford, to the medical practitioner carrying out any such examination, facilities to inspect any process or work to be assigned to the young person.

(4) The register of medical examinations referred to in paragraph (3) shall be open for inspection by any medical practitioner

authorised by the Director, and it shall not be destroyed or otherwise disposed of without the approval of the said Director.

(5) Without prejudice to the provisions of paragraph (1), the Director may, for the purpose of verifying any medical findings or recommendations, require the employer to make arrangements for any young person to be medically examined by any medical officer approved by the said Director for the purpose.

(6) The employer shall be liable to any expenses incurred in carrying out for such examinations. No employee shall suffer any deduction in wages or any loss of benefit in respect of time lost for attendance for such examinations or for any investigations in connection therewith.

(7) This regulation shall not apply in the case of a child or adolescent carrying out work in terms of the provisions of regulation 8(2) and in respect to any school activity, or any activities carried out in pursuance of any educational curriculum or any philanthropic, cultural, artistic, sports or educational activity approved by the Minister responsible for education.

Work by children.

8. (1) No person shall employ under any contract of service or otherwise, or give out any work to a child.

(2) Paragraph (1) shall not apply in respect of any school activities, or any activities carried out in pursuance of any educational curriculum or any philanthropic, cultural, artistic, sports, educational or advertising activities approved by the Minister responsible for education, or in respect of any training or apprenticeship scheme:

Provided that no child shall be allowed to participate in any of the foregoing activities if the activity is likely to be harmful to the health, safety, or development of the child, if it jeopardizes the child's attendance at school, the child's participation in vocational guidance or training programmes, or the child's capacity to benefit from the instruction received:

Provided further that the employment of children for the purposes of performance in cultural, artistic, sports or advertising activity requires the prior authorization of the Director, who shall only give such authorization if satisfied that the activity is not likely to be harmful to the health, safety, or development of children, does not jeopardize their attendance at school, their participation in vocational guidance or training programmes, or their capacity to benefit from the instruction received.

(3) Without prejudice to the generality of paragraph (2), when

a child is given work in any training or apprenticeship scheme, the working time of such a child shall be limited to:

(a) eight hours a day and forty hours a week for work performed under a combined work/training scheme or an in-plant work-experience scheme;

(b) two hours on a school day and twelve hours a week for work performed in term-time outside the hours fixed for school attendance, provided that the working time on a day which is not a school day shall not exceed seven hours; and

(c) seven hours a day and thirty five hours a week for work performed during a period of at least a week when school is not operating:

Provided that any such child shall be entitled to a minimum rest period of fourteen consecutive hours in any twenty-four hour period.

(4) Notwithstanding the provisions of paragraph (1), a child may be allowed to perform work of a light nature which is not harmful, damaging or dangerous to the child in a family undertaking, for a period which does not exceed seven hours a day or thirty-five hours a week:

Provided that no child shall be assigned any work to be carried out between 8p.m. on any one day and 6.00a.m. of the following day.

Work by adolescents.

9. (1) No person shall give out work to an adolescent if the work to be given jeopardizes such person's education.

(2) An employer shall only employ under any contract of service or otherwise, or give out any full-time work to an adolescent if such adolescent has been granted an exemption from schooling issued under section 43(2) of the Education Act:

Cap. 327.

Provided that it shall be the duty of the employer to ascertain whether the adolescent to whom he intends to assign work has been granted such an exemption.

Force majeure.

10. Without prejudice to the generality of regulations 5(1), 6(3), and 6(6), an employer may permit work to be carried out by a young person who is not a child or an adolescent, in the event of *force majeure*, provided that:

(a) the work to be carried out is of short duration, of a

temporary nature, and is carried out immediately;

(b) no adult workers are available, or are not available in sufficient numbers;

(c) the young person is allowed equivalent compensatory rest time within the following three weeks.

Offences.

11. (1) Any breach of any provision of these regulations shall be deemed an offence.

(2) The parent or person who has the custody or care of a child shall be guilty of an offence if any breach of the provisions of these regulations takes place with his knowledge or consent.

Repeal of L.N. 71 of 1996.

12. The Work Place (Protection of Young Persons) Regulations, 1996, are hereby repealed.

SCHEDULE

Regulation 4(1)(b)

Agents and processes of work to which young persons cannot be exposed

1. (A) Physical agents.

(i) Ionizing radiation;

(ii) Work in high - pressure atmospheres, e.g. in pressurized containers, diving.

(B) Biological agents.

All biological agents, including those that have been genetically modified and cell cultures, which can cause severe human disease.

(C) Chemical agents.

(i) All chemical agents regarded as being toxic, corrosive, highly flammable, and/or explosive.

(ii) All chemical agents regarded as being carcinogenic, and/or sensitizing through skin contact or by inhalation, and agents which may cause irreversible health effects, serious health effects, heritable genetic damage, damage to an unborn child, and agents which may impair fertility.

(iii) Lead and compounds of lead.

(iv) Asbestos.

2. (i) Processes which involve the use of carcinogenic chemicals, or which produce carcinogenic chemicals, whether as an end product or as an intermediary.

(ii) Manufacture and handling of devices, fireworks or other objects containing explosives.

(iii) Work with fierce or poisonous animals.

(iv) Animal slaughtering on an industrial scale.

(v) Work involving the handling of equipment for the production, storage or application of compressed, liquefied or dissolved gases.

(vi) Works with vats, tanks, reservoirs or carboys.

(vii) Work involving a risk of structural collapse.

(viii) Work involving high-voltage electrical hazards.

(ix) Work the pace of which is determined by machinery and involving payment by results.