

No. 25

THE HEALTH AND SAFETY AT WORK ORDINANCE, 1999
(Ordinance 6 of 1999)

REGULATIONS MADE UNDER SECTION 38

In exercise of the powers conferred upon him under section 38 of the Health and Safety at Work Ordinance 1999 ^(a) and of all other powers enabling him in that behalf, the Administrator hereby makes the following Regulations:-

PART I

PRELIMINARY PROVISIONS

Citation and commencement

1. These Regulations shall be cited as the Health and Safety (Fixed-Duration Employment Relationships and Temporary Employment Relationships) Regulations 2003 and shall come into force on the date of their publication in the Gazette.

Interpretation

2. In these Regulations, unless the context otherwise requires:-

“fixed-duration employment relationship” means an employment relationship which is governed by a fixed-duration employment contract, concluded between an employer and an employee, where the end of the contract is determined by objective conditions, such as:-

- (a) reaching a specific date;
- (b) the completion of specific work; or
- (c) the occurrence of a specific event;

“the Ordinance” means the Health and Safety at Work Ordinance 1999;

“temporary employment business” means a business which employs persons to work for other employers in their undertakings;

“temporary employment relationship” means the relationship between a temporary employment business and an employee, where the latter is assigned to work for and under the control of an employer in another undertaking, hereinafter referred to as the “user undertaking”.

PART II

APPLICATION AND OBJECT

Application

3. These Regulations shall apply to and in relation to:-
- (a) fixed-duration employment relationships; and
 - (b) temporary employment relationships.

^(a) Ordinance 6 of 1999.

Object

4. - (1) The aim of these Regulations is to ensure that employees with a fixed-duration employment relationship and employees with a temporary employment relationship are afforded, in relation to their health and safety at work, the same level of protection as that afforded to other employees in the user undertaking.

(2) A fixed-duration employment relationship or a temporary employment relationship shall not justify different treatment in relation to the level of health and safety protection afforded to the employee concerned, in particular in relation to his access to personal protective equipment.

PART III GENERAL PROVISIONS

Provision of information to employees

5. - (1) Without prejudice to the provisions of the Ordinance and of the regulations made thereunder in relation to the provision of information to employees, every employee with a fixed-duration employment relationship or a temporary employment relationship must be informed by his employer or, in the case of a temporary employment relationship, the employer in the user undertaking, of any health and safety risks he may face, prior to commencing any work activity for that employer.

(2) The information provided pursuant to paragraph (1) must include, in particular:-

- (a) details of:-
 - (i) any special occupational qualifications or skills necessary to carry out the work; and
 - (ii) any special medical surveillance, required by law; and
- (b) a clear statement of any increased specific risks, as defined in existing legislation, that the work may entail.

Training of employees

6. Without prejudice to the provisions of the Ordinance and of the regulations made thereunder in relation to the provision of training to employees, in the cases referred to in regulation 5, every employee must be provided with sufficient training, appropriate to the particular characteristics of the work, by his employer or, in the case of a temporary employment relationship, by the employer in the user undertaking, taking into account qualifications and experience of that employee.

Medical surveillance of employees

7. Without prejudice to the provisions of the Ordinance and any regulations made thereunder in relation to the provision of medical surveillance of employees, every employee with a fixed-duration employment relationship or with a temporary employment relationship who is required to carry out work which requires special

medical surveillance, as defined in existing legislation, must be provided with that special medical surveillance by his employer or, in the case of a temporary employment relationship, by the employer in the user undertaking.

Protection and prevention services

8. Every person designated, in accordance with the Management of Health and Safety at Work Regulations 2003, to carry out activities related to providing protection from and prevention of occupational risks in any undertaking must be informed by the employer in that undertaking of the assignment of any employee with a fixed-duration or a temporary employment relationship, to the extent necessary to enable such designated person to carry out adequately his activities for the benefit of all persons at work in the undertaking.

PART IV SPECIAL PROVISIONS

Temporary employment relationships: information

9. – (1) Without prejudice to Regulation 5, before any employee with a temporary employment relationship is supplied, the employer in the user undertaking shall notify the temporary employment business of the occupational qualifications required and the specific features of the job to be filled by the employee.

(2) The temporary employment business shall bring all these facts to the attention of the employee concerned.

Temporary employment relationships: responsibility

10. – (1) Without prejudice to the obligations imposed upon temporary employment businesses in relation to their employees by the Ordinance and the regulations made thereunder, the employer in the user undertaking shall be responsible for the conditions under which the work is carried out by any employee with a temporary employment relationship assigned to carry out work for him, for the duration of the assignment.

(2) For the purposes of paragraph (1), the conditions under which the work is carried out shall be limited to those connected with health, hygiene and safety at work.

Dated this 20th day of February 2003.

By the Administrator's Command,
J.C.A. JARVIS CBE,
Chief Officer,
Sovereign Base Areas.

(107/6)
