

2006 No. 438

HEALTH AND SAFETY

**The Management of Health and Safety at Work (Amendment)
Regulations 2006**

<i>Made</i> - - - -	<i>23rd February 2006</i>
<i>Laid before Parliament</i>	<i>28th February 2006</i>
<i>Coming into force</i> - -	<i>6th April 2006</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b), in relation to measures relating to employers' obligations in respect of the health and safety of workers, in exercise of the powers conferred upon him by the said section 2(c) and by sections 15(1) and (2) and 47(2) of the Health and Safety at Work etc Act 1974(d) ("the 1974 Act") 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 the 1974 Act, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Management of Health and Safety at Work (Amendment) Regulations 2006 and shall come into force on 6th April 2006.

Amendment to Management of Health and Safety at Work Regulations 1999

2. For regulation 22 of the Management of Health and Safety at Work Regulations 1999(e) there shall be substituted the following regulation —

“Restriction of civil liability for breach of statutory duty

22.—(1) Breach of a duty imposed on an employer by these Regulations shall not confer a right of action in any civil proceedings insofar as that duty applies for the protection of a third party.

(2) Breach of a duty imposed on an employee by regulation 14 shall not confer a right of action in any civil proceedings insofar as that duty applies for the protection of a third party.

(a) S.I. 1992/1711.

(b) 1972 c.68.

(c) As regards Scotland, see also section 57(1) of the Scotland Act 1998 (c.46), which provides that, despite the transfer to the Scottish Ministers by virtue of that Act of functions in relation to observing and implementing obligations under Community law, any function of a Minister of the Crown in relation to any matter shall continue to be exercisable by him as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972.

(d) 1974 c.37; sections 15(1) and 50(3) were amended by the Employment Protection Act 1975 (1975 c.71) Schedule 15, paragraphs 6 and 16(3) respectively.

(e) S.I. 1999/3242, as amended by S.I 2003/2457.

(3) In this regulation, “third party”, in relation to the undertaking, means any person who may be affected by that undertaking other than the employer whose undertaking it is and persons in his employment.”.

Signed by the authority of the Secretary of State for Work and Pensions.

23rd February 2006

Philip Hunt
Parliamentary Under Secretary of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations amend regulation 22 of the Management of Health and Safety at Work Regulations 1999 (“the 1999 Regulations”), which concerns civil liability for breach of the duties imposed by those Regulations.

2. The Management of Health and Safety at Work and Fire Precautions (Workplace) (Amendment) Regulations 2003 (S.I 2003/2457) amended regulation 22 of the 1999 Regulations so as to activate the statutory presumption of civil liability contained in section 47(2) of the Health and Safety at Work etc. Act 1974, subject to a specific limitation. The effect was to permit civil claims to be brought against employers and employees who are in breach of duties imposed on them by those Regulations but the amendment provided that claims could not be brought against employers insofar as the duty applies for the protection of persons not in their employment, that is, third parties.

3. The effect of these Regulations is to extend to employees that protection against claims by third parties, in circumstances where employees may owe a duty to third parties under regulation 14 of the 1999 Regulations.

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