

<b>Health and Safety Executive</b>		<b>Operational Circular</b>	
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Target Audience  
All HSE Inspectors

### THE HEALTH AND SAFETY (TRAINING FOR EMPLOYMENT) REGULATIONS 1990

The Health and Safety (Training for Employment) Regulations 1990 SI 1990 No 1380 (file 110) which extended the coverage of health and safety legislation to all those receiving "relevant training" as defined by the Regulations. The Regulations cover those doing "relevant training" while on government training schemes and students and pupils on work experience.

#### SCOPE OF THE REGULATIONS

1 The Regulations extend the meaning of the word "work" in the Health and Safety at Work etc Act 1974 (HSW Act) to include "relevant training". Consequently, those provided with "relevant training" are treated as employees of the **immediate** provider of the training. Trainees may not be engaged in "relevant training" for the whole of an extended training course or programme and consequently the trainee may not be an employee for the whole of the course. However, the inclusion of the phrase "or training for employment" in the definition of "relevant training" (see [para 3](#) below) means that participants in many of the Government's schemes, for example Training for Work, will be employees for health and safety purposes, unless the training is provided by an educational establishment as defined by the Regulations. A free HSE leaflet, (HSE 23)(rev), *Health and safety legislation and trainees: a guide for employers* (file 110) describes the responsibilities of employers and is available from the public enquiry point.

2 Most government training schemes are funded by training and enterprise councils (TECs) who contract with training providers (TPs), also known as managing agents, to provide the training. Training providers may be charities, educational establishments, local authorities, chambers of commerce or businesses. They may, in turn, subcontract all or part of the training, including the work placements. The health and safety responsibilities of the TP will depend on the nature of the training they give the trainee. Some of it will fall within the definition of "relevant training", eg when the TP is the **immediate** provider of work experience, but some, eg training carried out in an educational establishment or interviews to assess progress and training needs, may not.

#### Meaning of relevant training

3 The Regulations define "relevant training" as "work experience provided pursuant to a training course or programme, or training for employment, or

both". The definition has an exception which excludes work experience or training for employment where the immediate provider of the training is an educational establishment **and** the work experience or training is part of a course run by that establishment.

## IMPLICATIONS OF THE REGULATIONS FOR CERTAIN GROUPS OF TRAINEES

### **School and college pupils and other participants on courses run by educational establishments**

4 The relationship between students and teachers is different from that between employers and employees. The standard of care and supervision expected from teachers is that exercised by a reasonably careful parent rather than that provided by an employer. For this, and other reasons, HSW Act s.2 coverage was considered inappropriate for pupils and students and the definition of "relevant training" excludes training provided by an educational establishment on a course run by that establishment to ensure that **students are not employees**. Educational establishments continue to have HSW Act s.3 duties towards their pupils and students.

5 It may be the case that a participant on a training course spends part of his or her time at a workplace and part on a college course; an example would be someone doing "relevant training" in an office who went to a college to learn word-processing skills. They would be deemed to be an employee at the office (and the immediate employer in the office would have HSW Act s.2 responsibilities for the trainee) but their attendance at the college will fall outside the definition of "relevant training" and the college would have duties under HSW Act s.3.

### **Work experience in educational establishments**

6 Those who attend educational establishments to gain work experience, for example trainee teachers, cooks or secretaries are doing "relevant training" and the educational establishment has HSW Act s.2 duties towards them. This is because the work experience or training is not provided "on a course run by the establishment". For example, teaching practice is part of a course run by a college of education or university, not part of a course run by the school in which the practice takes place.

### **Trainee doctors and nurses**

7 Recent reforms in the health service mean that teaching institutions are now separate establishments from hospitals. However, the trainees spend much time in the associated hospital on educational visits. If these visits are purely for observation then it is unlikely they are "relevant training"; but if the trainees help with the work of the hospital, assisting doctors at clinics or in caring for patients, then this might be "relevant training" and the hospital, as the immediate provider, would have HSW Act s.2 duties.

### **Work shadowing**

8 "Work shadowing" and "work trials" are increasingly common. Participants in such arrangements are not receiving "relevant training" because the purpose of the trial is for a person to show to an employer that he or she already has the necessary skills for the job on offer. The same applies to private arrangements between an individual and an employer to "give a job a try".

### Trainees using display screen equipment

9 Some trainees are on courses requiring the use of display screens. Unless the training is provided by an educational establishment, the trainees on the course should be treated as employees and immediate provider of the training will be their employer. As such he or she will be responsible for providing eye and eyesight tests under the Display Screen Equipment Regulations 1992 **provided the course is long enough for the trainee to be defined as a "user" under the those Regulations.** The point at which a training course becomes long enough for those on it to be defined as "users" has not been tested in the courts. However, many trainees move on very rapidly and will not have established their status as a "user" and hence the immediate provider of the training will not be responsible for eye and eyesight tests.

### Cancellation and annotation of instructions

10 OM 1990/134 - cancel and destroy.

11 HSEM 1983/20 )  
FIC IN 258 ) - delete manuscript entry "See OM 1990/134" and insert "See OC 110/9"

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### ASI headings

Health and Safety (Training For Employment) Regulations 1990: training (extra-departmental): work experience schemes: young persons.