



Safety Legislation Update 2012

It is a year since Professor Löfstedt published his review on health and safety reform. Professor Löfstedt, Director of the King's Centre for Risk Management at King's College London chaired a committee tasked, by the government, to reduce the burden of unnecessary regulations on businesses, whilst maintaining Britain's high performance in safety. In general the report concluded that health and safety law in the UK is fit for purpose, however, he identified some legislation that needed to be reviewed and updated. This review followed hot-on-the-heels of Lord Young's review in 2010 entitled 'Common Sense, Common Safety'. During 2012 we have seen the impact of their recommendations, with more due over the next couple of years.

Legislative changes - 1st October 2012

Smoke Free (Signs) Regulations 2012

In July 2007 the Smoke Free (Premises and Enforcement) Regulations 2006 came into force. These regulations prohibit smoking in the workplace or public place in enclosed or substantially enclosed areas. This means that virtually all enclosed public places and workplaces became smoke free, including offices, rest rooms, pubs, clubs private members clubs, cafes, restaurants, shopping centres and work transport.

Vehicles

Licensed vehicles such as taxis and minicabs must be smoke-free at all times. Even if the vehicle is being used as a private car and the driver is off duty they cannot smoke in their vehicle.

The legislation covers all company and work vehicles, like delivery vans and lorries, that are used by more than one person. Even if there is only one person in it, and more than one person sometimes uses the vehicle, it has to be smoke-free at all times.

Enforcement

Smoking in smoke-free premises or vehicles is against the law and the perpetrator is liable to a fine if caught. The person with management responsibility for the premises or vehicle is legally responsible for preventing smoking as well.

Smoke-free law is enforced by local councils and port health authorities, within the areas for which they have responsibilities. The penalties and fines for the smoke-free offences set out in the [Health Act 2006](#) are:

- smoking in smoke-free premises or a vehicle: a fixed penalty notice of £50 (discounted to £30 if paid within 15 days from the issue of a notice) or a fine by a court not exceeding level 1 on the standard scale (up to £200)
- failure to display no-smoking signs in smoke-free premises and vehicles as required by the law: a fixed penalty notice of £200 (discounted to £150 if paid within 15 days from the issue of a notice) or a fine by a court not exceeding level 3 on the standard scale (up to £1,000)
- failing to prevent smoking in a smoke-free premises or vehicle: a fine by a court not exceeding level 4 on the standard scale (up to £2,500)

What's new?

Signage

The Smoke Free (Signs) Regulations 2007, which supported the Smoke Free (Premises and Enforcement) Regulations 2006 has been revoked. The 2007 regulations were very specific on what type of signage must be used and where it must be displayed. The new regulations relax the rules on signage and premises owners are only required to display a legible no smoking symbol somewhere on the premises or vehicle. Unlike the 2007 regulations they no longer need to be displayed at the entrance to buildings and neither do they need to be a specified size and design.

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Health and Safety (Fees) Regulations 2012

The Health and Safety (Fees) Regulations, commonly referred to as the Fee For Intervention (FFI). FFIs are only applied when there is a 'material breach of health and safety law' which requires an HSE inspector to make a formal intervention through letter, email, and instant visit report or prosecution. The breach could be a lack of machine guarding resulting from a technical breach, such as inadequate risk assessments, lack of policy documents, etc. An inspector's time will be charged at £124 per hour and will be applied from the beginning of the visit for which that material breach was identified through to the point that the problem is rectified. The costs have the potential to mount-up significantly.

Legislative changes - 1st April 2012

Portable Appliance Testing (PAT)

In April 2012, the HSE published guidance on maintaining portable electrical equipment in low-risk environments such as offices, shops, etc. The industry guide (INDG236 – Maintaining portable electrical equipment in low-risk environments) attempted to clarify the requirements for PAT testing. The guide states that the decision to PAT should be based on risk assessment by the employer and not by the person or company carrying out the test. To support this the employer should:

- Instruct staff to complete user checks regularly to identify any obvious signs of damage;
- Carry out formal, visual inspections on a routine basis. This doesn't need to be carried out by an electrician, but it should be carried out by someone who is competent and knows how to identify signs of damage, correct fuses, etc.;
- If there is any doubt, a PAT should be carried out.

2012 changes to accident reporting (RIDDOR)

In April 2012 the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) was amended. The most significant change was that employers '*only have to report injuries that lead to a worker being incapacitated*' for more than seven consecutive days as a result of an occupational accident or injury (not counting

the day of the accident, but including weekends and rest days). This report must be made within 15 days of the accident and it should be made via the HSE's RIDDOR website.

Additional changes are likely to come into force in 2013 which will simplify what is a reportable disease, introduce a new regulation that covers the control of sharps and reduce the burden of accident reporting on the self-employed. These changes are still in the consultation process.

Other legislation that has been revised this year:

Control of Asbestos Regulations 2012, requiring that some types of non-licensed work with asbestos now have additional requirements, such as notification of work, medical surveillance and record keeping.

The future

Over the next two years 30 HSE publications will be reviewed and amended, making them easier to understand and shorter in length. Revised Approved Codes of Practice (ACoPs) will be published. By the end of 2013 revised ACoPs will include dangerous substances, legionella, asbestos, identification and traceability of explosives, construction, gas safety, work places, health and safety management and agriculture. The second tranche, which will be completed by the end of 2014 include confined spaces, diving work equipment, lifting equipment, quarries, worker involvement and pressure systems. Until the new ACoPs are formally published the guidance in the existing ACoPs will apply.

Note:

Whilst this fact sheet gives general guidance on the law relating to this topic at the time of drafting, it is not intended to be a comprehensive guide to this area of law. You are advised to seek specific advice in relation to any particular issues that need to be addressed in relation to this topic by a competent person.
