

Overview

Everyone in health and safety will be aware that significant changes are afoot. There's a political drive to free businesses from unnecessary legal requirements and make the rest easier to understand and comply with.

The HSE reports that it's on track to meet the goals, set in its Business Plan 2012 – 2015. Many of these objectives resulted from: the Lord Young's report "Common sense, common safety" published in October 2010; Professor Löfstedt's report "Reclaiming health and safety for all: an independent review of health and safety regulation"; the Red Tape Challenge; and the financial pressures on the HSE to reduce its costs. Other recent changes have occurred in the area of civil procedures resulting from Lord Justice Jackson's "Review of Civil Litigation Costs" published in January of 2010.

This document looks at the changes which came into force this month and which are expected in the coming year; as well as providing further information and resources that will help you to prepare for these changes.

Timetable of changes

October 2013

Amendment to Health and Safety (First Aid) Regulations 1981

Which removed the requirement for HSE to approve training providers and qualifications of appointed first-aid personnel.

Available documents

General Information Sheet 3 (GEIS3) 'Selecting a first-aid training provider: A guide for employers' 'The Health and Safety (First-Aid) Regulations 1981', 'Regulations and Guidance (L74)'

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR) RIDDOR 2013 replaced RIDDOR 1995 on 1st October 2013.

The main changes made by these Regulations are:

- A simplified and shortened list of specified reportable injuries ("major injuries") to workers sustained as a result of a work-related accident.
- A clarified and shortened list of reportable dangerous occurrences (near-miss events).
- A simplified and significantly shortened list of reportable ill-health conditions in workers (replacing 47 specified ill-health conditions with 8 categories of work related diseases).
- A simplified list of dangerous occurrences within the rail-sector, and removal of the requirement to report suicides on railways.

No changes are being made to:

- Recording requirements;
- Reports of fatal accidents;
- Reports of accidents involving non-workers including members of the public;
- Reports of accidents which incapacitate workers for more than seven days;
- Requirements to preserve certain incident sites at mines, quarries and offshore workplaces pending investigation and subject to overriding safety needs.

Available documents and details

Reporting accidents and incidents at work
Incident reporting in schools



Changes to the Health and Safety at Work etc. Act 1974

Section 69 of the Enterprise and Regulatory Reform Act 2013 (ERRA) came into effect in October 2013 by Order of the Secretary of State. The Enterprise and Regulatory Reform Act 2013 (Comencement No. 3, Transitional Provisions and Savings) Order 2013 had the effect of amending Section 47 of the Health and Safety at Work etc. Act 1974 removing the general right to claim compensation for injury linked to a breach of legislation.

Unless regulations specifically state otherwise, there will be no right to claim for 'breach of statutory duty'. Instead, claimants will need to prove negligence in common law.

Available documents and details:

Barbour summary paper on the Enterprise and Regulatory Reform Act 2013

Primary Authority Schemes

Sections 67 and 68 of the Enterprise and Regulatory Reform Act 2013 (ERRA) also came into force on 1st October 2013 as a result of the same order which brought into effect section 69. These changes amend Part 2 of the Regulatory Enforcement and Sanctions Act 2008 which provides for the co-ordination of regulatory enforcement by local authorities by means of the Primary Authority Scheme. It gives more businesses the opportunity to set up a Primary Authority Scheme so that they can benefit from consistency of enforcement approach across local authority boundaries. The changes also give a statutory footing to any inspection plan agreed with the lead authority, making other authorities obliged to obtain the consent of the lead authority before they carry out inspections outside of the plan.

Other changes expected for 2013/4

Proposed amendment to section 3 of the Health and Safety at Work etc. Act 1974

The effect of the proposals within a draft Deregulation Bill would be to exempt the self-employed in low-risk occupations from health and safety legislation. The draft bill and explanatory notes can be found here:

Proposals to revise, consolidate or withdraw Approved Codes of Practice (ACoPs) by the end of 2013

Dangerous substances and explosive atmospheres (ACOPs L134 - 138)
Hazardous substances (ACOP L5) Pipelines (ACOP L81)
Asbestos (ACOPs L127, L143) Workplaces (ACOP L24)
Gas safety (ACOPs L56, COP20) Agriculture (ACOP L116)
Management of health and safety (ACOP L21) Legionella (ACOP L8)

Available documents and details:

Details of the consultations can be found on the Barbour service.

For example:

CD259 – Consultation on Control of Substances Hazardous to Health Regulations 2002 (as amended)
CD255 – Consultation on draft revised Approved Code of Practice (ACOP) Managing and working with asbestos
CD258 – Consultation on Legionnaires' disease: The control of legionella bacteria in water systems (L8)



There are also ACoPs, which may be subject to minor amendments or no change by end of 2014

Work equipment (ACOPs L22, L112, L114) Quarries (ACOP L118)
Lifting equipment (ACOP L113) Confined spaces (ACOP L101)
Pressure systems (ACOP L122) Diving (ACOPs L103 - 107)
Hazardous substances - pottery production (ACOP L60)
Hazardous substances - lead (ACOP L132) Worker involvement (ACOP L146).

Changes to rules for employment agencies

Earlier in the year the government consulted on plans which would change the regulation of recruitment agencies. It was expected that as a result there would be an amendment to the Employment Agencies Act 1973 and repeal of the Conduct of Employment Agencies and Employment Businesses Regulations 2003. If/ when this comes into effect agencies will no longer be required to provide job applicants with information about health and safety risks. There is no further news at present as to when these changes might happen.

Revocation of the Factories Act 1961, Offices, Shops & Railway Premises Act 1963 and the repeal of a further 10 regulations associated with the Acts

There was overwhelming support by respondents to the HSE's consultation on the proposed revocations and repeals and it is therefore expected that these changes will take place in October 2014.

Revision of the Construction (Design and Management) Regulations and Approved Code of Practice

A radical overhaul of the CDM regulations is anticipated for October 2014. This should align them with the minimum requirements of the Temporary & Mobile Construction Sites (TMCS) Directive. The Approved Code of Practice will provide legal interpretation of the revised regulations and there will be guidance for small construction projects. Industry specialists will be encouraged to develop sector specific guidance.

Available documents and details:

'Amendment of the Construction (Design and Management) Regulations 2007: update on current position' Paper to the CONIAC meeting July 2013

Changes to the Control of Major Accident Hazards Regulations 1999 to reclassify heavy fuel oils

The proposals are to reclassify heavy fuel oils so that their storage would only come within COMAH where more than 2500 tonnes was stored.

Available documents and details:

CD262 – Consultation on Draft Regulations to implement Article 30 of Council Directive 2012/18/EU on the control of major-accident hazards involving dangerous substances, amending Council Directive 96/82/EC



Proposed Acetylene Regulations 2014

The new regulations, planned for October 2014, would consolidate and clarify existing requirements and would be accompanied by new guidance.

Available documents and details:

CD257 – Consultation on proposals to consolidate and modernise the legislative controls for Acetylene.

Consolidation of explosives legislation

The proposed new Explosives Regulations will consolidate elements of one Act, ten pieces of secondary legislation and fifteen exemption certificates.

Available documents and details:

CD256 – Consultation on proposal to consolidate and modernise explosives legislation.

New guidance for working at height

A review of the Work at Height Regulations 2005 determined that the regulations themselves were fit for purpose. However clearer guidance is anticipated for April 2014, to make it clear that the legislation does not expect disproportionately risk averse action.

Other sector-specific consolidations of regulations

These are planned in 2014 for Biocides, Petroleum, Mining and Genetically Modified Organisms.

Adventure activities licensing

It appears that plans to abolish the Adventure Activities Licensing Authority may only apply to England and could be delayed until 2014.

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