

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

Background

Under regulation 22 of the Management of Health and Safety at Work Regulations 1999 (MHSWR) breach of a duty under the regulations would not confer a right of action in any civil proceedings, unlike the other regulations made under the Health and Safety at Work Act 1974.

This situation was changed by the 2003 Amendment Regulations, which replaced regulation 22 to the effect that employees could bring civil claims against their employers where they were in breach of duties in MHSWR.

However, the TUC and Public Concern at Work remained concerned that the regulations would still permit civil claims under regulation 14 of MHSWR against employees by third parties who were affected by the work activity, eg members of the public. Regulation 14 requires employees to use equipment in accordance with training and to inform their employer of any work situation that would be a serious and immediate danger to health and safety.

Current position

Accordingly, the Health and Safety Commission issued a Consultative Letter in February 2005 setting out their proposals for regulations to amend regulation 22 of MHSWR to exclude the right of third parties to seek damages from employees in breach of their duties under those regulations. Following the consultation, the Management of Health and Safety at Work (Amendment) Regulations 2006 were issued, commencing on 6 April 2006:

Press the control key and click [here](#) to download the new regulations.

Control of Noise at Work Regulations 2005

Background

The current Noise at Work Regulations 1989 implement the 1986 EC Noise Directive. However, this has been superseded by the EC Physical Agents (Noise) Directive 2003 and the Control of Noise at Work Regulations 2005 have been drawn up to implement that Directive, commencing on 6 April 2006.

Main changes from 1989 Regulations

1 The *first* and *second action values* of 85 dB(A) and 90 dB(A) respectively in the 1989 Regulations are replaced by a *lower exposure action value* of daily or weekly noise exposure of 80 dB(A) and *upper exposure action value* of 85 dB(A).

2 New overall *exposure limit values* of 87dB(A) and peak of 140 dB(C) have been introduced taking into account the attenuation of ear plugs, etc. This is the level of personal noise exposure or peak sound pressure which must not be exceeded. Similarly, the 1989 regulations set a *peak action level* of 140 dB(C).

3 Where exposure varies markedly from day to day, one may use weekly personal noise exposure in place of the daily figure

4 If a risk assessment indicates a risk to health of employees who are exposed to noise, there is a specific requirement for the employer to place them under suitable health surveillance, to include hearing tests.

Other principal requirements

1 Where work is liable to expose employees to noise at or above the lower exposure action level, employers should

make a suitable and sufficient risk assessment, which should identify the measures to be taken to comply with the regulations.

2 The risk to employees from exposure to noise should be either eliminated at source or reduced to as low a level as is reasonably practicable.

3 Hearing protection should be issued to employees where extra protection is needed above what can be achieved using noise control measures. At or above the *lower exposure action value*, personal hearing protectors shall be made available on request to any employee who is so exposed. At the *upper exposure action level*, the employer should provide hearing protectors to any employee affected.

4 Employers should ensure that the hearing protection provided is properly used and maintained in efficient working order. Employees should make proper use of the equipment and report any defect to his employer.

5 Where employees' exposure is likely to be at or above the *lower exposure action value*, they should be provided with suitable information, instruction and training, updated as necessary.

6 The Noise at Work Regulations 1989 are revoked.

Issues of particular relevance to police work

ACPO obtained an exemption certificate under the Noise at Work Regulations 1989 in connection with firearms operations (not training). The new regulations also contain an exemption facility, under which HSE may grant an exemption from compliance with regulations 6(4) and 7(1) to (3) in respect of emergency services' activities which conflict with those requirements.

These regulations cover control of exposure to noise above an exposure limit value and the provision of hearing protectors as in paragraph 3 above.

HSE may not grant such an exemption unless it is satisfied that the health and safety of the employees concerned is

ensured so far as is possible in the light of the objectives of the Regulations.

Press the control key and click [here](#) to download the Regulations.

Regulatory Reform (Fire Safety) Order 2005

Background

Current fire safety legislation is about to be replaced by a single new piece of law: the Regulatory Reform (Fire Safety) Order 2005 (RRFSO). This will replace the two main pieces of legislation dealing with workplace fire precautions: the Fire Precautions Act 1971 and the Fire Precautions (Workplace) Regulations 1997. In most cases, the new Regulations will be enforced by the Fire and Rescue Service and will come into effect on 1 October 2006.

Principal requirements

1 The new legislation will apply to "any premises", which includes any workplace, but excludes domestic premises.

2 Responsibility for complying with the regulations will rest with the "responsible person". In a workplace, this is the employer if it is to any extent under his control. If there is more than one responsible person, all must take reasonable steps to work with one another.

3 Fire certificates (formerly issued under the Fire Precautions Act 1971) will no longer be required and will cease to have legal status.

4 The responsible person has to carry out a fire risk assessment which must focus on the safety in case of fire of all relevant persons. It should pay particular attention to those at special risk, such as disabled people, and must include consideration of any dangerous substance likely to be on the premises. Where there are five or more employees, the significant findings of the risk assessment must be recorded.

5 The fire risk assessment will help to identify risks that can be removed or reduced and to decide the nature and extent of the general fire precautions needed to protect people against the

remaining fire risks. General fire precautions include the means of escape in case of fire, means of fire detection and alarms, and the provision of fire fighting equipment.

6 The responsible person must make arrangements for the effective planning, organisation, control, monitoring and review of the measures required for general fire precautions. He should appoint a competent person(s) to assist him in undertaking those measures.

7 The responsible person should also provide employees with information on the fire risks and precautions to be observed, and adequate safety training. Employees should take reasonable care for their safety and cooperate with their employer.

8 Where responsible persons share premises, they should cooperate with one another in order to comply with the requirements of the RRFSO.

9 Inspectors appointed by the enforcing authorities (generally the Fire and Rescue Service) have the power to enter premises at any reasonable time to check on compliance. They may issue an alteration notice, an enforcement notice or a prohibition notice as deemed necessary. Failure to comply with a notice is an offence triable either summarily or on indictment.

Responsible person under RRFSO for Police Federation offices

For an office owned by the Federation JBB and staffed by Federation employees, the duty holder – the “responsible person” - would be the employer, the Federation.

For a leased Federation office in a larger police establishment, the responsible person would again be the employer of the staff working there – the Federation. However, if the terms of the office lease place a responsibility on any other person for the maintenance or repair of the premises, that other person would also have a duty under the RRFSO, but only “so far as the [legal] requirements relate to matters within his control”.

Press control key and click [here](#) to download the new Regulations.