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1. HSG122 - "New and Expectant Mother at Work" withdrawal update

The row over the withdrawal of HSG 122 –guidance on "New and Expectant Mothers at Work" and the document's removal from the HSE's free downloads website continues. The TUC has expressed serious concerns to HSE that the guidance was withdrawn without consultation or prior notice. In response, HSE claimed that the guidance is no longer needed as it contained "information which was considered to be gold plating of the legal requirements or which duplicated requirements set out in legislation owned by other government departments, such as sick leave or maternity leave was taken out." It also said that Hugh Robertson, TUC Senior Policy Officer and one of the HSE Board members representing employee interests knew there were changes needed – which might be interpreted to imply his agreement to withdrawal. Hugh has made it abundantly clear that he was not consulted, and if he had have been would have opposed any decision to withdraw HSG122. He is seeking a formal meeting with HSE to discuss this further.

The TUC responded that it was the employee reps that, some time ago, drew to the HSE's attention the decision in a case whereby the judge ruled that an employer doesn't automatically have to conduct a risk assessment when a worker tells them they are pregnant; the employers action would depend on the kind of work done, and may just involve a simple check that nothing untoward was happening. References to "gold plating" appear to mean that the HSE cannot give appropriate guidance that includes good or best practice, despite previous assurances from the HSE that guidance is not limited to an explanation of the legal requirements, and can contain good practice. The TUC also believes that it is government policy to support guidance which is clear and simple and can be accessed in one place to avoid people having to search through different websites. Hence the TUC was surprised by the statement that "duplicated requirements set out in legislation owned by other government departments, such as sick leave or maternity leave, was taken out."

Some of us are very concerned that the organisation whose purpose is to enforce the law that protects people at work, and who claim their approach of encouraging and guiding employers in the right direction is the best way to do the job, arbitrarily removes some good practice guidance. We'll let you know what happens. Meanwhile, if you still want a copy of HSG 122, send an e-mail to jbamford@ucu.org.uk and I'll send you one.

2. Occupational Health research cut.

An organisation that has contributed significantly over the years to the health of people at work, and to helping cut the costs of occupational ill health is to cease taking on new projects due to a lack of research funding.

The British Occupational Health Research Foundation (BOHRF) has written to the Institution of Occupational Safety and Health (IOSH), one of its sponsors, to say that it would start to wind down its activities in 2012, citing the effects of the economic climate on employer sponsorship and funding. BOHRF's research has spanned a wide range of occupational health issues, including rehabilitation and trauma at work, back pain, mental health and occupational asthma. Their evidence-based research has provided practical advice and guidance for employers, benefiting employee health.

Not surprising really. It's just more evidence that the limited amount of research into work-related health issues is being reduced even further. I'm sure private sector, for profit organisations will expand their activities to fill the gap, providing there is something in it for them.

3. ILO Stress publication

I included an e-mail link to the new ILO stress publication in the previous newsletter, but I have discovered it has ceased working – this one worked on 10th February 2012 http://www.ilo.org/global/publications/books/forthcoming-publications/WCMS_168053/lang--en/index.htm

4. RIDDOR: changes come into effect 6th April 2012

The HSE has now amended L73: A Guide to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulation 1995, and is now available on the free downloads website at <http://www.hse.gov.uk/pubns/priced/l73.pdf> This confirms the RIDDOR changes made as a result of Lord Young's recommendation, and the reporting procedures changes introduced by HSE last year.

The only legal change is to the reporting requirement under Regulation 3(2) – absence due to injury that is sustained at work but is not a major injury listed in Schedule 1 of RIDDOR. This change becomes law on 6 April 2012. It extends the period which must elapse before an employer has to report an injury sustained at work that results in absence. The period is extended from more than 3 days absence to more than 7 days, not including the day of the injury. The report has to be made as soon as practicable and, in any event, within 15 days of the event that caused the injury. More detail in Guidance paragraphs 61–67 of the booklet.

There are also reporting procedural changes. Only fatal and major injuries can now be reported by telephone. All other cases must be reported using the new online reporting

service on the HSE website. Full details are provided in paragraphs 55–90 of the document guidance.

Confused – your employer might be: Just to make sure there is some confusion, RIDDOR Regulation 7 *still* requires employers to keep a record of any injury where the worker is incapacitated *for more than 3 days*. So worth checking that happens at your workplace.

I would have thought that having now to record +3-day absences at the workplace, then remember to notify HSE after 7 days of absence makes that a bit more complicated and burdensome on employers, not simpler and burden-reducing. Suppose it depends on your definitions. This is a set of regulations that almost everyone agrees isn't particularly good at recording the real state of work-related injuries anyway, so the status of official injury figures could be undermined even further.

5. Working at home; new HSE guidance

As a result of Lord Young and Ragnar Lofstedt recommendations, the Health and Safety Executive has issued revised guidance on home working. Where the type of work carried out at home is deemed 'low risk' – that's office-type work – the employer will only be responsible for the equipment it supplies. In order to satisfy themselves that the activity being performed by the employee is low risk, it advises employers to review the situation carefully.

For most UCU members, home working will be limited to the use of display screen equipment; in this case risk assessments will still be required for all home workers. The employer will still need to ensure that work stations at home comply with the DSE Regulations standards, particularly in relation to seating.

Whilst there may be less interest from the regulators concerning home working, any prudent employer will still need to satisfy itself that the risk of the activity being carried out at home is 'low' in order to benefit from the relaxation of the rules. So despite standards being eased, the HSE advises employers to continue to keep records of how they risk-assess home working, because failure to do so may leave employers exposed.

Download a copy of INDG226 from <http://www.hse.gov.uk/pubns/indg226.pdf>

6. Compensation under threat – more cuts to come?

In the last issue, we reported the establishment of the new body to hear employer complaints against advice given to them by health and safety inspectors, if they believe the inspector has exceeded what's reasonable, or got it wrong. The panel will have the power to overrule the inspector immediately if they judge the inspector did get it wrong. Now the Government has launched another element of the initiative to tackle what it calls the UK's "compensation culture" and to free small and medium-sized enterprises "from the stranglehold of health and safety red tape".

Announcing this further assault, the Prime Minister said that the Government will extend the current scheme that caps the amount lawyers can earn from small-value personal injury claims and reduce overall costs in cases funded by "no win no fee" deals. This, he said, would help to bring down costs "and deter the speculative health and safety claims made against good businesses that would appear not to have done anything wrong".

There would be an overhaul of health and safety laws, including changing the strict liability for civil claims so that businesses would no longer automatically be at fault if something goes wrong.

Cameron has described excessive health and safety as "an albatross around the neck of British businesses" and pledged to make 2012 not just the year of the Olympics and the Diamond Jubilee, but also "the year we get a lot of this pointless time-wasting out of the British economy and British life once and for all". Tell that to the families of those killed and maimed at work, Mr Cameron.

The Engineering Employers Federation and the TUC both made critical comments. The EEF said that while the Government was right to be tackling the burden of false claims, ministers should not confuse a 'compensation culture' with an overall 'health and safety culture'. The Löfstedt review clearly indicated that the UK's health and safety system is fit for purpose and that the problems lie with the interpretation of legislation by some parts of the insurance industry, not the legislation itself."

The TUC pointed out again that the whole notion of a compensation culture was a myth.

"Workers will be astonished by the claim that there is an 'excessive health and safety culture that has become an albatross around the neck of British businesses'. The truth is that there are two million people in the UK who have an illness or injury caused by their work - the vast majority of which could have been prevented had their employer taken the correct safety precautions".

Don't forget that this year's Workers Memorial Day is the TUC's Day for Health and Safety, an opportunity to show our concerns and opposition to this reduction in regulation and enforcement. The TUC will be organising activities in the regions; and encouraging unions to organise as well. More details from jbamford@ucu.org.uk and your regional TUC office.

7. Fire, Fire!

Following reports of two fires at Strathclyde and York Universities, (See reports at <http://www.york.ac.uk/communications/internal/briefing-notes/fire-in-chemistry/> for York, and <http://www.bbc.co.uk/news/uk-scotland-glasgow-west-16938271> for Strathclyde) a hotel and its sole director have been fined £210,000 following prosecution for fire safety breaches.

The Chumleigh Lodge Hotel Ltd and director Michael Wilson had pleaded not guilty to a total of 12 offences under the Regulatory Reform (Fire Safety) Order 2005. The trial at Blackfriars Crown Court is believed to be the first jury trial of a case under the Fire Safety Order. On Monday 6 February, Wilson was fined £180,000, and the company £30,000. The defendants were ordered to pay prosecution costs of £50,000, and compensation of £2,000 to a guest. The offences date back to a fire at the hotel on the 18 May 2008.

The investigation following the fire uncovered a number of breaches including defective fire doors, blocked escape routes and no smoke alarms in some of the bedrooms. Mr Wilson was unable to produce a suitable and sufficient fire risk assessment and had not provided staff with adequate fire safety training.

The company was found guilty of six offences, while Wilson was found guilty of 'consent or connivance in the commission' of those same offences:

- Failure to make a suitable and sufficient assessment of risk (article 9);
- Failure to provide staff with adequate safety training (article 21);
- Failure to ensure emergency routes from the premises are kept clear (article 14);
- Failure to adequately equip premises with fire detectors (article 13);

- Two counts of failure to ensure premises, facilities, equipment or devices are maintained in an efficient state, in working order and in good repair (article 17);

According to the London Fire Service, it carries out around 16,000 fire inspections of premises each year and has found that there are still too many buildings that do not have an adequate fire risk assessment, have fire exits blocked, inadequate fire alarms or poor training for staff.

Following sentencing, the chair of the London Fire and Emergency Planning Authority commented that the verdict sends out a clear message that, if employers ignore the duties imposed on them, they will be prosecuted and will face serious penalties. The London Fire Authority seems to have a good record on enforcement. Are others so enthusiastic?

8. Health & Safety courses

The next UCU Health & Safety starter course begins on Tuesday 13th March – 15th March, at the UCU head office in Carlow Street. For funding reasons UCU training courses have been changed to 3 days; the second stage linked to this course is 19th – 21st June, so now match other UCU course provision. Application form at <http://www.ucu.org.uk/index.cfm?articleid=4821>

The second stage 2-days – Managing Health & Safety - at Coleg Harlech on 19th – 20th March still has a few places available, so if you want a 2 day course on the wild and wonderful North Wales coast, there is room. <http://www.ucu.org.uk/index.cfm?articleid=4941> for more information and to register.

See http://www.ucu.org.uk/media/pdf/b/0/H_S_courses_all_regions_2011-12.pdf for a list of all remaining H&S courses for 2011 – 2012. Just to remind everyone; this isn't a course just for health & safety representatives; it's a course for all UCU representatives. Almost everything your employer does, or any decision they take will have some degree of implication for the health, safety or welfare of our members, so all UCU reps need to know about organising to improve workplace conditions.

Contact UCU Health & Safety Advice

UCU Health & Safety Advice is provided by the Greater Manchester Hazards Centre, and is available for 3 days each week during extended term times.

**The contact person is John Bamford: (e) jbamford@ucu.org.uk
(t) 0161 636 7558**

**Visit the [UCU Health and Safety web page:](http://www.ucu.org.uk/index.cfm?articleid=2132)
<http://www.ucu.org.uk/index.cfm?articleid=2132>**