



The Safety Advisor

Providing information and guidance on a broad range of safety management issues

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01604 749 911

Proposals for New Fire Safety Regulations in 2005

With the proposed changes to fire regulations due to take effect in Spring 2005 under the Regulatory Reform (Fire Safety) Order (RRO) we thought it would be useful to provide a simple but precise summary of the main proposals.

Essentially the RRO would replace the Fire Precautions Act and the Fire Precautions (Workplace) Regulations and as much of the remaining legislation as is practical. The proposals will apply in England and Wales, a summary of the key elements are as follows:

- The objective of the reform is to create one simple fire safety regime applying to all workplaces and other non-domestic premises.
- Fire safety within companies and premises is to be coordinated by a "responsible person".
- The responsible person will usually be the employer but it could be a managing agent or a landlord. They will have a clearly defined responsibility to appoint or employ competent persons to assist them in meeting their obligations under fire safety legislation.
- Compliance with fire safety legislation will be achieved via a risk assessment based approach, with a requirement for risk assessments to be suitable and sufficient and carried out by a competent person.
- This approach would replace the need for fire certificates where appropriate.
- There will be a new statutory duty on fire authorities to promote community fire safety which will include the power to enforce compliance with the above points.
- Failure to comply could result in penalties ranging from enforcement notices to fines.

What impact will the new fire safety regulations have?

Current fire safety legislation has always required employers, managing agents and landlords to implement a robust fire safety management system to identify and control fire hazards in relation to their undertaking, including the requirement to carry out a fire safety risk assessment, however these rules are fragmented and spread across a number of different pieces of legislation.

The RRO looks to provide employers and those responsible for premises with a clear definition of their duties. This consolidation and clarification of fire safety legislation offers little hiding place for those who do not fully embrace the requirements of the RRO. It also makes

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Proposals for NHS to bill employers for work related accidents

Draft regulations published in September aim to save the NHS £150 million a year by shifting the cost of accident treatment to employer's liability insurance. Should the regulations come into effect the proposed charge for accident and emergency treatment for work related accidents will be £473 per day per accident and £582 a day for ward care.



Updates to the Disability Discriminations Act 1995 - Have you made 'reasonable adjustments'?

Part III of the Disability Discriminations Act came into effect on 1st October 2004 which requires 'service providers', anyone who is providing goods, facilities or services to the public to make "reasonable adjustments" to the physical features of their premises which makes it unreasonably difficult or impossible for disabled persons to use their services.

So what is classed as reasonable and how can a service provider limit the possibilities of facing a legal claim?

The Code of Practice for the Rights of Access to Goods, Facilities, Services and Premises 2002 provides guidance on what is classed as reasonable. A court may take the following into account when deciding whether a service provider has made reasonable adjustments: - The practicality of undertaking any works; disruption to business; cost of undertaking adjustments; financial resources available to the client; amount of money already spent on making adjustments.

Whilst there is no law enforcement agency in place to determine whether premises and services are accessible anyone who feels they have been discriminated against can complain to the Disability Rights Commission (DRC) who are empowered to conduct formal investigations. The DRC may then fund legal action against the service provider concerned or provide additional support where required. In addition from the 1st October 2004 the previous exemption for service providers and employers employing less than 15 persons has now been removed, however small businesses with less than 100 employees may be entitled to a grant in order to assist them in making reasonable adjustments.

For many businesses the initial dilemma is to ascertain precisely where they stand in relation to the Act and what action they might need to take. The simplest solution and a clear demonstration that the Act is being taken seriously is to carry out a disabled access audit, which would identify the following areas:

- Any areas for which they are responsible under the DDA 1995
- Any areas where they maybe discriminating against a disabled person
- Areas within a building/premises which may not meet the recommended current design criteria BS8300:2001 and Approved Document M 2004
- Any suggestions to modifications to services, practices, procedures or premises in order to make services accessible to disabled persons.

For further information on the DDA 1995, disabled access audits, requirements of service providers and employers please contact us at office@positive-steps.net or on 01604 749911.

New Work at Height Regulations 2004

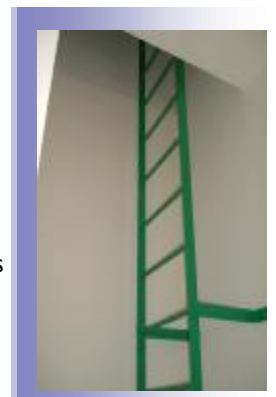
The HSE is due to introduce the Work at Height Regulations 2004 this year. These regulations are aimed at all industries (not just construction) and aim to set minimum requirements for the selection and use of work equipment for undertaking work at heights.

The new regulations replace existing construction specific work at heights regulations and this has led to some industries claiming that standards have been lowered.

In brief some of the changes will be:

- To carry out risk assessments for any use of ladders
- Weekly inspections of scaffolding
- The requirement for guardrails to be 950 mm high (currently the requirement is 910 mm)

Further updates to the legislation will be made and consultation is still continuing but one thing is certain employers and all those who undertake work at heights will face additional responsibilities.



Recent Case Law in Brief

McDonalds Restaurants Limited & Jones Lang LaSalle Fined £75,000

On the 26th November 2004, McDonalds Restaurants Limited and managing agent Jones Lang LaSalle were fined a combined total of £75,000 by Birmingham Crown Court after pleading guilty at an earlier Magistrates hearing to charges under sections 2(1) and 3(1) of the Health and Safety at Work etc. Act 1974. The prosecution was launched by Birmingham City Council after an investigation into the circumstances surrounding serious spinal injuries suffered by an employee working for McDonalds who fell from the roof space through a section of fragile ceiling. Prior to the incident several generic health and safety audits had been carried out (between November 2001 and June 2002). However only the June 2002 audit identified a potential hazard associated with the condition of sections of false ceiling within the roof void. Even so McDonalds continued to allow staff to access the roof area.

The court heard how the injured employee was accessing the roof space to conduct a survey of the ventilation system when she stepped onto an adjacent false ceiling thinking it was load bearing. There were no signs to identify the fragile roof and no edge protection to prevent individuals stepping on to these areas. The employee fell more than 11 feet through the ceiling to the ground below, her injuries were so severe that she had to have a lower rib removed and grafted onto her spine, while part of her spine was put into a titanium cage held together by metal pins.

Jones Lang LaSalle who manage the shopping centre admitted that they had known about the lack of edge protection since 1999 but had taken no steps to make the roof area safe even though one of their security guards had a similar accident in January 2001. Both defendants believed the other had been responsible for the failings however, the judge remarked that the incident was entirely avoidable as there were warnings well in advance and nothing had been done. McDonalds was fined £35,000 plus costs of £7,532 and Jones Lang LaSalle was fined £40,000 plus costs of £7,660. This case highlights the importance of undertaking suitable and sufficient risk assessments and acting on any areas which are known to be hazardous. It also demonstrates how liability for an incident can be shared by more than one party.

Article produced with information from the SHP January 2005 edition.

Q & A: In this edition we have a look at risk assessing

What is a Health & Safety Risk Assessment?

A risk assessment is a methodical evaluation of practices and procedures within a business. The objective is to identify all possible hazards associated with business activity and assess the likelihood and severity should any of the hazards occur. The next step is to identify what measures are in place to remove or control the hazards identified followed by a detailed plan of action to further remove or control any hazards that still present an unacceptable level of risk.

Do I need to carry out a risk assessment?

All employers and those that are responsible for premises need to assess the risks that their business activity may present. Those that employ more than five persons are required to record the significant finds of this assessment. This requirement is clearly stated in the 'Management of Health and Safety at Work Regulations 1999' which also includes the requirement for employers to use a competent person to assist them in meeting their obligations.

What happens if a suitable and sufficient risk assessment is not carried out?

Quite simply failure to comply with the regulations is a breach of health and safety law and is directly punishable with a fine. Other consequences are:

- Fines for breach of other health and safety legislation which would have ordinarily been identified and controlled had a risk assessment been carried out.
- Civil claims by employees, other companies or members of the public affected as a result of an incident.
- Cost of replacing equipment, increased insurance premiums, negative publicity, increased staff turnover etc.

Essentially a health and safety risk assessment is not only a legal requirement but an invaluable insurance to protect the operating efficiency of a business.



Positive Steps join forces with Posturite

Positive Steps have recently agreed a strategic partnership with Posturite, a UK leader in the provision of specialist ergonomic solutions. Where traditional assessment methods to prevent injury are not proving effective, Posturite have a range of innovative products as well the expertise in the field of ergonomic assessments to further assist people who suffer from pains whilst at work.

The result is that, in addition to the existing range of professional safety management services we currently offer, we can now provide clients with highly specialised ergonomic solutions at preferential terms through Posturite.



Our Profile & Contact Details

**Positive Steps Health & Safety
Consultancy**
The Naseby Business Centre
56 School Lane
Naseby
Northants
NN6 6BZ

Phone: 01604 749 911
Fax: 01604 740 777
Email: office@positive-steps.net
Website: www.positive-steps.net

Effective health and safety management starts with a Positive Step...



Positive Steps
Health and Safety Consultancy

Positive Steps Health and Safety Consultancy was founded on the basis that health and safety should help not hinder the growth of a business. By understanding your company's aims and objectives we can identify workable solutions to meet your everyday and long term health and safety goals. Our service based approach will enable your company to make the welfare of employees, contractors and clients a core part of your business aspirations.

In addition to our broad range of services, all of our customers are eligible to use our 24 hour support service which provides direct access to a health and safety consultant at any time at no additional cost.

Should you have an enquiry specific to your business which you require information on, then please contact the following persons for advice:

Fire Safety, Asbestos Management and Training

Paul Sewell Ba (Hons), NEBOSH, Techsp email: office@positive-steps.net

General Health & Safety and Disabled Access

Victoria Sewell Bsc(Hons), MIOSH email: office@positive-steps.net

A Comprehensive Range of Safety Management Services

Positive Steps Health and Safety Consultancy offer a comprehensive range of safety management services some of which are listed below. For full details please visit www.positive-steps.net or contact us on 01604 749 911 or e-mail us at office@positive-steps.net



New Website Goes Live!

www.positive-steps.net

Positive Steps are pleased to announce that our new website has gone live. The website provides a combination of information on the full range of safety management services we offer together with regulatory information explaining when each of these services is required under current legislation.