

# Defend health and safety Day of Action, 28 April 2012

## Bulletin 1

### Defending Regulation

In January 2012 the Prime Minister claimed made an outspoken attack on health and safety regulation. He said that he was “waging war against the excessive health and safety culture that has become an albatross around the neck of British businesses” and that businesses had to “battle against a tide of risk assessment forms”.

He also said that the Health and Safety Executive had been given the task of abolishing or consolidating up to half of existing regulations.

This briefing outlines what the government are doing with health and safety regulations and why strong simple regulations are needed.

#### **The government view on regulation**

The government has said that any new regulation must be matched by the removal of another regulation. It calls this one-in, one-out.

It also says that any new regulation introduced through Europe should be implemented in Britain at the lowest level possible, and any existing regulations should be reduced to the level of the new European regulation. In addition no regulations can impose any new “burdens” on small businesses for the next three years.

They have also set up no less than three reviews of health and safety regulation in the past year and a half. These are a review by Lord Young, a review by Professor Ragnar Lofstedt and what is called the “Red-tape challenge”.

The first two reviews have both concluded there was no case for any change in the overall health and safety framework and both accepted that there was not an “excessive” health and safety culture.

The “red-tape challenge” was set up in 2011 to get businesses to suggest what regulations should be removed. Anyone could leave a suggestion on a website, yet the overwhelming majority called for no change to the existing regulations.

### **What the evidence says**

“My overall conclusion is that there is no evidence for radically altering current health and safety legislation. This overwhelming view was expressed by a wide range of stakeholders including groups that represent employers. Furthermore there is evidence that work-related ill health and injury is itself a considerable burden on business (as well as a cost to society more generally) and that the regulatory regime offers vital protection to employees and the public.”

*Professor Ragnar Lofstedt - launching his review of health and safety regulation.*

The government has also said that we do not need any more regulation because Britain is one of the safest countries in the world. This is rubbish. According to the Health and Safety Risk Index, published in January 2010 the UK's health and safety performance was 20th out of the 34 OECD (developed) nations.

### **Do we have too much regulation?**

In 1974 the number of regulations on health and safety was 462. In April 2009 the number was 248. This means we have 46 per cent less regulation than 35 years ago. It is not just the number of regulations that have declined. Over the last five years the HSE has also reduced the number of forms used for collecting information from business from 127 to 54 - a 57.5 per cent reduction.

### **Is regulation a burden on business?**

Regulation should not be seen as a burden on business. It is a responsibility, just as paying taxes is a responsibility, and no business should be able to operate unless it can do so safely.

However, there is no evidence that, despite all the complaints, health and safety regulations impose even a minimal hardship on businesses.

The Prime Minister said that businesses were doing “battle against a tide of risk assessment forms every year”. This is nonsense. The vast majority of employers never carry out any kind of written risk assessments, and for those that do, there is easy-to-understand advice available from the Health and Safety Executive on how to do them.

According to research conducted by the government in 2005 called the “*Administrative Burdens Measurement Exercise*” the average firm spends approximately 20 hours and just over £350 a year on the administrative costs of complying with the management Regulations (mainly risk assessment). Given this figure includes a considerable number of very large firms, it is clear that the normal cost for smaller companies will be considerably less.

Where the cost does lie is in failing to protect workers. The cost to employers of sickness absence caused by work has been estimated by the employers' organisation, the CBI, to be £3.7bn a year. That excludes the cost to insurers, the health service and central government and to the workers themselves.

### **Does regulation work?**

The answer is definitely yes. Since the Health and Safety at Work Act was introduced in 1974 there has been an 80 per cent decrease in fatalities. Part of that is a result of changes in the workplace and changes to technology but the HSE estimates that around half is a result of health and safety legislation and enforcement.

A scientific study of the effectiveness of legislation on health and safety in the UK conducted in 2001 found that "Legislation and associated guidance is a major form of leverage over employers in terms of bringing about change in their health and safety policies and practices. Most employers are motivated to change their practices to comply with the law."

Research in Europe has also found that regulation works. Much of Britain's health and safety culture is based on European regulations. A study on the implementation of them showed that they "have widely contributed towards improved working conditions, boosting productivity, competitiveness and employment". It showed there had been a considerable improvement in terms of health and safety protection and stated that the implementation and application of the EU legislation played a crucial role in bringing down the figures.

### **Do unions want more regulation?**

The TUC wants simple effective regulation. It does not support regulation for the sake of it. Both employers and health and safety representatives need to be able to understand the law for it to work. We do not want laws that are too complex, which have no use, or which can't be enforced.

Unions support a 'common-sense' approach to regulation. That is why they have supported the work that has been done by the HSE to remove old regulations and to simplify others. The TUC supported merging all the construction regulations together because that would be simpler than having three sets of regulations. We also supported merging the various asbestos regulations.

However we also want new regulation in areas where there is a clear need. Examples are a legal duty on directors to protect the health and safety of their workers, and a maximum temperature in the workplace.

### **What is being proposed?**

The government has told the HSE to get rid of half of all existing regulations by the end of the year. Many of those that have been ear-marked for deletion are no longer relevant and the HSE had already planned to remove them. Some, however, will have an effect on safety in the workplace.

Examples include changing the regulations on reporting injuries. Previously those that lead to an absence of more than three days had to be reported. From this year it will be more than seven days. This will mean that hundreds of thousands of injuries will no longer be reported and employers will be less likely to take action to prevent them.

The government also plans to remove large numbers of self-employed people from health and safety laws. They say that this will only affect those who pose no risk to others but many self-employed people work in occupations where they put themselves at risk (such as farmers) and these people need the protection of health and safety regulation. In addition any move to remove protection from the self-employed will lead to more and more employers wrongly using bogus self-employment as a way of getting around their legal responsibilities.

Among the other regulations that the government has said it will scrap are some of those dealing with falls from height and the requirement to register tower cranes.

### **What it means**

The government's attack on health and safety laws destroys the consensus that has existed around health and safety for the last 40 years. It will make it harder to get the laws we need in areas where there are new risks and could lead to Britain having some of the lowest levels of protection in Europe.

However what is also important is the message that the government is giving to employers. It is saying that the laws are unnecessary and do not matter. That health and safety is not important and there is no need for rules and regulations. That will mean that more and more workers will be put at risk, made ill and killed or injured at work.

It is also part of a wider attack on workers rights. The government is also trying to make it easier for employers to dismiss workers by making it harder (and more expensive) to take an employer to an employment tribunal. In addition they are making it more difficult to get compensation if you are injured.

### **What you can do!**

The TUC is organising a Day of Action to defend health and safety. This will be held on 28 April 2012 which is International Workers Memorial Day when we traditionally remember the dead and fight for the living. Never has that message been more important than now. Let's ensure that we make it clear that we want clear commitments and action from those who should be protecting us.

Join any events in your area on that day and demonstrate that we will not give up our right to a safe workplace.

TUC website [www.tuc.org.uk/wmd](http://www.tuc.org.uk/wmd)  
**Workers Memorial Day 28 April 2012**  
Remember the dead - but fight for the living

