



# Safety - Management Regulations

July 2013

## HSE withdraw Management Regulations ACoP and Guidance

Despite considerable objections HSE has decided to withdraw the Approved Code of Practice (“ACoP”) and Guidance to the Management Regulations<sup>1</sup>.

The Management Regulations themselves will remain unaffected and duty holders must continue to comply with them. The ACoP will cease to have effect following its withdrawal on 31 July 2013 leading potentially to uncertainty and a lack of clarity on what duty holders should do.

The consultation was part of the Government’s wider drive to clarify and, where possible, simplify health and safety compliance and entailed the review of 32 of the 52 ACoPs.

### What are ACoPs?

ACoPs provide practical guidance on the requirements of certain health and safety legislation. They are approved by the HSE and Secretary of State and have a special legal status. A duty holder that complies with the ACoP material will have done enough to comply with the law on the specific issues it addresses. If a duty holder does not comply with the ACoP it will have to show that its alternative practice meets the requirements of the relevant statute or regulations.

In practice complying with an ACoP can often be as important as complying with the related legislation.

### Background to withdrawal

In his independent review of health and safety legislation published in November 2011<sup>2</sup>, Professor Löfstedt recommended that the HSE review all its ACoPs by June 2012. Criticisms levelled at the ACoP included:

- Its failure to describe methods of compliance with sufficient precision for duty holders to be certain they have complied with their legal obligations;
- Its inability to offer practical guidance due to its generic nature; and

- Concerns it was over complex and unnecessarily legalistic in the way it was communicated.

The HSE published its consultation in June 2012 and its analysis of the responses in January this year. The HSE has decided to proceed with the withdrawal, despite 52% of those who responded to the consultation opposing it.

### What will the ACoP be replaced with?

HSE propose to replace the ACoP with structured and well signposted guidance in revised versions of the following publications:

- Health and Safety Made Simple;
- The guidance previously branded as “Essentials”;
- The Five Steps to Risk Assessment; and
- Management for Health and Safety (HSG65), which will now focus on a ‘Plan, Do, Check, Act’ approach and include useful guidance on:
  - The core elements of managing for health and safety;
  - Deciding if you are doing what you need to do; and
  - Delivering effective arrangements.

Much of this guidance already exists and any remaining advice currently provided by the ACoP is to be carried across to these documents, which are yet to be published with this revised content.

### Impact

The HSE believe that the withdrawal of the ACoP relating to the Management Regulations and the transfer of the advice into the publications listed above will make the guidance more useable. The view of the HSE is that the guidance will make it easier for duty holders to understand how to meet their legal

<sup>1</sup> Management of Health and Safety at Work Regulations 1999

<sup>2</sup> Reclaiming health and safety for all: An independent review of health and safety legislation [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/66790/lofstedt-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/66790/lofstedt-report.pdf)

obligations by providing comprehensive advice to businesses, (particularly SMEs) and safety representatives on how to comply with the law in a way that is much more specific than the current ACoP. The HSE states:

*“A communications handling plan will be drawn up to ensure that the information/guidance provided by the ACoP will not be lost and will be covered by guidance which is easier to use. It will also be made clear that the legal requirements have not and are not changing...”<sup>3</sup>*

However, concerns have been raised that despite this, the withdrawal of the ACoP may give the false impression that the law has changed and may lead organisations to place less weight on the guidance. Criticism has also been levelled at the fragmentation of information across numerous documents.

The ACoP currently contains guidance on instruction and training for employees; co-ordination with other duty holders in shared workplaces and obtaining competent safety advice which is not easily available elsewhere.

Ultimately the impact of the withdrawal of the ACoP will largely depend on the quality, clarity and usability of the guidance issued in its place, which is yet to be seen.

## Practice advice

- The Management Regulations themselves (and the obligations they place on duty holders) remain law and have not changed;
- The regulations should be the first port of call for duty holders looking to determine the extent of their health and safety obligations;
- The guidance documents listed in the box above should also be consulted in order to obtain more detailed and specific advice and examples;
- The revised guidance documents have not yet been published on the HSE website and there is no date for doing so. Organisations should continue to consult the current versions of the documents (including the Management Regulations ACoP); however these should not be relied upon once the documents have been updated.

<sup>3</sup> HSE Analysis of consultation responses: <http://www.hse.gov.uk/consult/condocs/cd241-analysis.pdf>

## Contact

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