



Collective **inspiration**

Regulations on **Consulting** with Employees

Health & Safety Briefing No. 24
April 2009

Did you know that...

The need for joint consultation on matters of health and safety has long been recognised. Indeed the International Labour Office has for many years advocated the value of communication on health and safety matters with employees, to nations across the world.

In the UK the Safety Representatives and Safety Committees Regulations (1977), made under the Health and Safety at Work Act, called for those employers recognising Trades Unions to consult with Safety Representatives appointed by the Trades Union.

Although such Safety Representatives could represent groups of persons, some of whom were not members of Trades Unions, there was still a huge gap in the ranks of employees in enterprises across the nation, who should be able to benefit from consultation on health and safety matters.

The gap has now been filled by the **Health and Safety (Consultation with Employees) Regulations 1996 (HSCE Regulations)**, initiated by the need for further implementation of Articles 10, 11 and 12 of the Framework Directive - Council Directive 89/391/EEC for measures to encourage improvements in the health and safety of employees at work.

Under these regulations all employees must be consulted by their employers on health and safety matters.

Employers can consult employees individually, or through representatives elected by groups of employees in their place of work.

Generally speaking, the role of representatives elected under the HSCE Regulations is less comprehensive than that of the Safety Representatives appointed under the earlier SRCS Regulations. Nevertheless, these new representatives have the following functions:

- discuss with their employer concerns about possible risks and/or dangerous occurrences in their place of work which might affect the employees they represent
- discuss with their employer general matters of health and safety affecting those they represent
- represent those employees in their 'constituencies' in consultation with HSE inspectors

Conscientious employers may encourage the extension of these roles if they wish.

In order to enable the elected representatives under the HSCE Regulations to be more effective in their new roles, employers must ensure they receive adequate training and give time off with pay and reasonable costs to facilitate that training.

Additionally, employers or their representatives must be sufficiently well informed on the subject matter to enable them to participate fully in the consultative process.

The employer, however, is **not** expected to give out information if:

- it would be illegal
- it was against national security
- it was about a person whose permission to give out the information had not been obtained
- it could harm the business (other than for reasons of its effect on health and safety)
- the employer had obtained the information during the course of legal proceedings

In general, the consultation **should** cover such aspects as:

- changes at work which may **substantially** affect the health and safety of people at work, such as changes in systems of work, procedures or equipment
- the employer's compliance with the requirement to appoint competent persons to assist in meeting health and safety legislation

- information resulting from risk assessments on likely risks and dangers, measures to control or eliminate such dangers, and what employees own actions should be if confronted by risk or danger
- the consequences on health and safety standards of the introduction of new technology

It is anticipated that consultation in the literal sense means that employers will take notice of the views expressed by employees to their representatives as a contribution to the decision making process, providing the employees and/or their representatives have received appropriate information prior to the consultation in such time as to enable them to digest the information and make a worthwhile contribution to the consultation.

It is important that managers, especially in the smaller enterprises, should not overlook or lightly dismiss this new legal requirement.

Further information:

- **Consulting Employees on Health and Safety – a guide to the law.** Free leaflet from the HSE (INDG232)
<http://www.hse.gov.uk/pubns/indg232.pdf>
- **Consulting Workers on Health and Safety.** Safety Representatives and Safety Committee Regulations 1977 (as amended) and Health and Safety (Consultation with Employees) Regulations 1996 (as amended), L146, ISBN 9780717663118
- **Safety Representatives and Safety Committees on off-shore installations.** INDG119, ISBN 0717616371,
<http://www.hse.gov.uk/pubns/indg119.pdf>
- **Safety Representatives and Safety Committees - Revised - L87** ISBN 0 7176 1220 1
- **A Guide to the Offshore Installations (Safety Representatives and Safety Committees) Regulations 1989 - L110** ISBN 0717615499

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