

Legal update - New health and safety law (all but) passed

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7 September 2015

The Health and Safety at Work Bill passed its third reading in Parliament on 27 August 2015 and is currently awaiting Royal Assent. The majority of the Bill (which will become the Health and Safety at Work Act) will come into force on 4 April 2016. A series of regulations will also be developed to support the Act.

The Bill incorporates:

- The Select Committee's changes (summarised in our most recent [update](#))
- A limited number of other changes introduced in supplementary order papers during the Bill's journey through Parliament.

The changes introduced in the supplementary order papers include:

- Clarification that a person who has a duty to eliminate or minimise risks to health and safety (so far as is reasonably practicable) must comply with that duty to the extent to which the person "has, or would reasonably be expected to have, the ability to influence and control the matter to which the risks relate"
- An explanation that due diligence (for officers of a PCBU) involves exercising the care, diligence, and skill that a reasonable officer would exercise in the circumstances, taking into account the nature of the business or undertaking, the position of the officer, and the nature of the responsibilities undertaken by the officer
- A requirement for courts when sentencing or dealing with a person or business convicted of an offence to have particular regard to "whether death, serious injury, or serious illness occurred or could reasonably have been expected to have occurred".

Controversially, the government has confirmed that an organisation with fewer than 20 workers will not have to hold an election for a health and safety representative where a worker requests an election, unless the organisation is in a "high-risk sector or industry" as defined in regulations. Also, such an organisation will not be required to establish a health and safety committee, where that is requested by a representative or workers.

In addition, on 21 August 2015 the government released a draft list of 57 industry sectors it considered high-risk. The list did not include sheep, beef and dairy farming. This may change when the definition of "high-risk sector or industry" is finalised, and an exposure draft of the regulations is expected in a few weeks. On current indications, however, that seems unlikely. On that basis, it is probable that many farms will not be subject to all of the new requirements concerning health and safety representatives and committees.

Between now and April 2016, organisations should ensure that their health and safety policy and practices line up with the new requirements. We are well-placed to assist with any queries you may have about this.

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