

Health, Safety & Welfare at Work

Your rights under the Workplace (Health, Safety & Welfare) Regulations 1992

Overview

Almost anyone in any work scenario can face threats to their health, safety and welfare. The Regulations we consider here apply to most employers and workplaces. There are exceptions outlined in Regulation 3, including construction sites and transport. It is also worth noting that non-worker visitors to a workplace are not likely to be covered by these Regulations.

What is a workplace?

This is defined by Regulation 2 as “...any premises or part of premises which are not domestic premises and are made available to any persons as a place of work, and includes:

- a) any place within the premises to which such person has access whilst at work; and
- b) any lobby, corridor, staircase, road or other place used as a means of access to or egress from that place of work or where facilities are provided for use in connection with the place of work other than a public road.”

The employer responsibilities detailed in the Regulations relate to every workplace, modification, extension or conversion under his or her control and where any employees work.

Keeping the workplace safe

Regulation 5 places a strict responsibility on the employer to ensure that the workplace and its equipment are maintained in an efficient state and good working repair.

The kinds of equipment which the Regulations cover include emergency lighting, fencing, fixed equipment used for window cleaning, anchorage points for safety harnesses, devices to limit the opening of windows, powered doors, escalators and moving walkways.

The level of regular maintenance needed is dependent upon a number of factors: the nature of the equipment, the likelihood of defects developing and the foreseeable consequences all influence how often and how intensively maintenance should be performed.

Ventilation, temperature and lighting

There are specific regulations to make sure such things as ventilation, lighting and indoor temperatures are suitable and sufficient. Additional regulations cover cleanliness and waste materials, room dimensions and space, workstations and seating.



Floor surfaces

Regulation 12 is particularly important, because it enforces strict liability on employers for floor surface defects that cause an accident. But if you were to slip or trip on something lying on the floor your employer can avoid liability if they can prove that everything “reasonably practicable” had been done to avoid the accident.

Fault is not always clear-cut

However, when it comes to defects in the floor surface, it is important to do a “qualitative assessment”.

In the case of *The Home Office v Lowles*, the Court of Appeal considered a case of an employee who tripped and injured himself in a side entrance at Armley Prison. The trip occurred on a two-inch step at the top of a ramp, highlighted by a “please mind the step” sign.

The Court considered the following factors:

- hundreds of people used the entrance every week
- there had been no previous accidents or complaints
- people using the entrance would include visitors with varying degrees of mobility, differing footwear and paying different degrees of attention

Continue overleaf >

- the two-inch step posed a substantial risk of tripping
- it was at the top of a ramp where one would not necessarily expect it
- a pedestrian's attention may well be drawn to the window where the officer permitting entrance into the prison was placed.

Regulation 12 (1) tends to imply an absolute duty on employers, but the Court will still look to the qualitative approach mentioned above in deciding whether an employer is at fault.

If you think you have a claim

If you think you have a claim under the Workplace (Health, Safety and Welfare) Regulations 1992. You should seek legal advice from a lawyer with specialist expertise in these cases.

“

The Court will still look to the qualitative approach in deciding whether an employer is at fault

”



Please feel free to discuss your own position and concerns.
Contact your nearest office on:

T: 0800 916 9015
E: enquiries@slatergordon.co.uk
W: www.slatergordon.co.uk

Slater & Gordon is one of the UK's leading and largest legal practices with offices throughout England, Wales and Scotland.

Slater & Gordon (UK) LLP is authorised and regulated by the Solicitors Regulation Authority. The information in this factsheet was correct at the time of going to press April 2012..