



**Claims Implications in a Change Environment -  
Record keeping and employment law issues  
Appendix**

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## Management of Health and Safety at Work Regulations 1999



- Regulation 3
  - Requires a suitable and sufficient risk assessment
  - If there are five or more employees its significant findings **must be recorded**
- Regulation 5
  - Requires making of health and safety arrangements
  - If there are five or more employees this **must be recorded**
- Regulation 8, 9 & 13
  - Requires procedures for serious and imminent danger, information and health and safety training for employees



## Provision and Use of Work Equipment Regulations 1998



- Regulation 13 – Maintenance
  - If there is a **maintenance log** it must be kept up to date
- Regulation 6 – Inspection
  - The result of an inspection **must be recorded** and kept until next inspection
- Regulations 8 and 9 – Information, instructions and training
  - Requires adequate health and safety information and, where appropriate, **written instructions**, and adequate training
- Regulation 32 - 34 – Inspection of Guarding etc
  - Requires thorough examinations and **reports** of such to be kept for **2 years**



## Construction (Design and Management) Regulations 2007



- Regulation 20
  - Requires a **health and safety file** (from the CDM Co-Ordinator) to be passed to the client at the end of construction phase
- Regulations 22
  - Requires **site rules** where necessary for health and safety (from the principal contractor)
- Regulations 23
  - Requires a **construction phase plan** (from the principal contractor)



## The Control of Substances Hazardous to Health Regulations 2002 (COSHH)



- Regulation 6
  - Requires a suitable and sufficient assessment
- Regulation 9
  - Requires maintenance, examination and testing of control measures, and keeping of **suitable records** of examinations and tests for **5 years**
- Regulation 10
  - Requires monitoring of exposure, and keeping **suitable records** of monitoring and retention for **40 years** where representative of exposure of identifiable employees (otherwise **5 years**)
- Regulation 11
  - Requires health surveillance and maintenance of **personal record** for each employee and retention for **40 years** from date of last entry



## Control of Asbestos Regulations 2006



- Regulation 6
  - Requires assessment of risk created by exposure to asbestos and **recording** of significant findings of that assessment
- Regulation 7
  - Requires **written plan** of work
- Regulation 9
  - Requires notification to HSE (necessarily in **writing**)
- Regulation 10
  - Requires adequate information, instructions and training to employees (probably in **writing**)



## Control of Asbestos Regulations 2006 cont...



- Regulation 11
  - Requires prevention or reduction of exposure to asbestos
- Regulation 13
  - Requires maintenance of control including examination and testing of RPE
  - Requires **written record** to be kept for **5 years** from that date
- Regulation 19
  - Requires **written records** of air monitoring
  - requires **written record** to be kept for **5 or 40 years**
- Regulation 22
  - Requires **health record** for each employee to be kept for **40 years** from last entry



## Control of Noise at Work Regulations 2005



- Regulation 5
  - Requires noise assessment and reviews
  - Requires **recording** of significant findings of risk assessment and of measures to be taken as a result
- Regulation 7
  - Requires provision of ear protection
- Regulation 9
  - Requires maintenance of a **health record** for employees
- Regulation 10
  - Requires provision of information, instruction and training to employees



## Making and retaining personnel/staff records



- Mandatory retention periods
  - 2 years
    - Working time records
  - 3 years
    - Payroll records
    - Maternity, paternity and adoption pay records
    - SSP records
    - National minimum wage records
    - Accounting records for private limited companies
  - 6 years
    - Retirement benefit schemes which are notifiable
    - Accounting records of public liability companies



## Making and retaining personnel/staff records cont...



- Recommended retention periods
  - 1 year
    - Application forms for employment and interview notes of unsuccessful candidates
  - 2 years
    - Right to work documents (from the date of employment ceasing)
  - 5 years
    - Records of parental leave taken (from the date of birth or adoption)



## Making and retaining personnel/staff record cont...



- Recommended retention periods cont...
  - 6 years
    - Disciplinary, training and working time records (from date of employment ceasing)
    - Redundancy details (from date of redundancy)
  - 10 years
    - Trade union agreements (from when they ceased to be effective)
  - Permanently
    - Works council meeting minutes
    - Health and safety consultation records



## But what about the Data Protection Act?



- Data Protection Act 1998
  - There is an obligation to delete or destroy records when the stage is reached that the data holder no longer has any need for them
  - Employees have the legal right of access to data held
- Websites to visit
  - [www.businesslink.gov.uk](http://www.businesslink.gov.uk)
  - [www.hmrc.gov.uk](http://www.hmrc.gov.uk)
  - [www.ico.gov.uk](http://www.ico.gov.uk)
  - [www.acas.org.uk](http://www.acas.org.uk)

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