

Health and Safety Executive

Proposed Amendment to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR)

Response from Thompsons Solicitors

May 2011

About Thompsons

Thompsons employs over 400 lawyers in 28 offices across the UK. At any one time we will be running 70,000 claims on behalf of people who have been injured at or away from work, through no fault of their own.

Q1. Do you support the proposal to extend the time before an occupational accident needs to be reported from over three days to over seven?

We do not support the proposal. RIDDOR compliance is not, in our view, cumbersome or a burden on business. We do not understand how the proposal will improve the health and safety of those that RIDDOR is designed to protect. The consultation document offers no explanation about this.

The consultation acknowledges that there is already significant under reporting of RIDDOR. That employers are not reporting serious incidents, as well as less serious ones, is a problem not solved by reducing their reporting obligations.

At a time of deep cuts to the HSE budget, with the government estimating a 76,000 drop in inspections, now is not the time to be reducing employers' health and safety obligations.

We believe that the proposal carries the inevitable consequence that employers will fail to investigate accidents fully where the worker was not off work for seven days because it sends the message that injuries resulting in a worker being off for less time than that are not as important and require less investigation and action.

In reality a lesser injury where the injured employee returns before seven days could have long term implications. And it could also result in those injuries not being recorded in the accident book.

We are concerned that by aligning employer reporting requirements with the obligation on employees to obtain a "fit note" from a GP for sickness absence longer than seven days will compound the risk that sick and injured people will be forced back to work before they are properly fit to return.

There is no obligation on employers under RIDDOR or the fit note regime to make changes to the working conditions of employees who are injured or become sick because of their work – such as by altering their duties or making changes to workstations.

Under the proposals employers might take someone back before they were ready, and even coerce them to do so only for them to go off sick again. This is neither in the employee's or the employer's interest.

It appears to us that by making the recommendation to extend the RIDDOR reporting requirements, Lord Young and the government have failed to appreciate the purpose and importance of the regulations. Health and safety inspectors need to know if something has gone wrong in a workplace which has resulted in injury. Only then can similar accidents be prevented in the future, by action that may include prosecution.

Gathering RIDDOR data enables the government to follow national trends in workplace health and safety and to target resources appropriately. Moving the criteria to seven days will make it more difficult to identify trends in different types of work-related conditions such as stress and WRULDS.

We would suggest that this proposal, rather than improving the accuracy of national statistics, will simply make the statistics on workplace accidents appear better at a time when the HSE budget is being slashed and health and safety regulations are being reviewed and watered down.

Q2. What advantages will the proposed extension to over seven days make to your business? Are there any disadvantages to making this change?

As said above, we do not accept that RIDDOR is cumbersome or a burden on business. We suggest that the impact of the extension will be detrimental to health and safety, which would be a disadvantage to employers' reputations and potentially to their profits.

Q3. At annex 1 of the consultation document, the Impact Assessment paragraphs 13 – 38 focuses on the calculation of costs and benefits of the proposal to both businesses and Local Authorities. Do you agree with the assessments of costs and benefits? Are there other factors which should be taken into account? Yes No Don't know Suggestions for additions

We have no comment on these calculations, other than they confirm that the motivation for the proposal is based entirely on achieving savings for employers rather than safeguarding employee's health and safety at work.

Q 4. Do you agree with the Equality Impact Assessment at annex 2 of the consultation document? Are there any other factors which should be taken into account? Yes No Don't know Suggestions for additions

We do not agree that there is no evidence to support an assertion that any particular group will be disproportionately, adversely affected by the change. There is a risk that long term trends in ill health among certain groups will be missed with a resulting on cost to the state.

Q 5. Can you foresee any specific problems that might arise for employers, workers, enforcing authorities or any other groups if the proposed extension to over seven days is adopted?

We refer to our response to Q1.

Q 6. Do you believe the loss of national data for over 3 to over 7 day injuries would have adverse consequences and, if so, what would you identify those as being?

We refer to our response to Q1. The UK will be legally required to provide information to Europe on lost time injuries and, in particular, over three day absences. There is a risk that the proposed alternative of using data from the Labour Force Survey may not be a good substitute for RIDDOR reports, and a more complex and expensive method for generating the data will be required.

Q 7. Are there any further comments you would like to make on the issues raised in this consultation document?

We refer to our response to Q1.

Further information:

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