

# Trades Union Congress

# INSPECTIONS 101

**Workplace inspections - The Law**

# Health and Safety Representatives are empowered by the following laws/legislation:

- **The Health and Safety at Work Act 1974**
  - Regulation 5
    - Inspections of the Workplace
  - Regulation 6
    - Inspections following notifiable accidents, occurrences and diseases
  - Regulation 7
    - Inspection of documents and provision of information
- **The Safety Representative, Safety Committee Regulations 1977 (SRSCR)**

# Health and Safety at Work Act 1974

The Health and Safety at Work etc Act 1974 is the primary piece of legislation covering occupational health and safety in Great Britain. It's sometimes referred to as HSWA, the HSW Act, the 1974 Act or HASAWA.

## **It sets out the general duties which:**

- employers have towards employees and members of the public
- employees have to themselves and to each other
- certain self-employed have towards themselves and others

# Regulation 5 (1)

## **Inspections of the Workplace:**

- Safety reps are entitled to inspect the workplace, so long as the safety committee has written to the employer, giving reasonable notice.
- Legally, reps have powers to inspect the workplace every three months.
  - However, good practice would see an increase in this frequency. Agreements with the employer, dependent on risk and wider business context and strong union organising would dictate this

# Regulation 5 (2)

**Inspections may be triggered when the following take place:**

- Introduction of new technology or processes
- Updated health and safety legislation published by The Health and Safety Executive (HSE)

# Regulation 5 (3)

The Employer shall provide such facilities and assistance as the Safety Representatives may reasonably require, including:

- Facilities for independent investigation (conducted by reps!)
- An area for private discussion with employees/members (for the purpose of carrying out an investigation under this regulation)

# Regulation 6 (1)

Inspections following notifiable accidents, occurrences and diseases:

- Where there has been any of the above notifiable items, and it is safe to carry out an inspection, in the interests of employees, reps can carry out an inspection within the workplace.

# Regulation 6 continued

*“Notifiable accident or dangerous occurrences” and “Notifiable disease” mean any accident, dangerous occurrence or diseases, as the case may be, notice of which is required to be given by virtue of any relevant statutory provisions within the meaning of Section 53(1) of the 1974 Act.*

- The Safety Representatives and Safety Committees Regulations 1977

<https://www.legislation.gov.uk/ukSI/1977/500/made?view=plain#:~:text=The%20Safety%20Representatives%20and%20Safety%20Committees%20Regulations%201977>



# Regulation 7

## **Inspection of document and provision of information:**

- Section 2 (4) of the 1974 Act entitles Safety Reps to inspect and take copies of any relevance to the workplace/workers. So long as the employer has been given reasonable notice.
- Exceptions are:
  - Disclosure against the interests of national security
  - Any information relation specifically to an individual
  - Legal privilege

# General Health and Safety Representative's Rights

## **Safety reps have the right to:**

- take an active part in workplace risk assessments;
- investigate potential hazards and 'dangerous occurrences', and examine the accident book;
- investigate members' complaints;
- carry out inspections of the workplace in work time, at least every three months;
- require their employer to set up and attend a safety committee (where two or more safety reps request this);
- be consulted on new working practices and new technology;
- receive safety information from their employer (e.g. inspectors' reports, hygiene surveys and risk assessments);
- attend union-approved training courses without loss of pay; and
- have access to a phone and office equipment, and paid time off work, both to carry out inspections and to meet staff and other safety reps.

# General Health and Safety Representative's Rights Continued

The duty of the employer to consult safety representatives SRSCR Regulation 4A requires employers to consult “in good time” over:

- The introduction of any measures which may substantially affect health and safety
- The arrangements for appointing competent people (e.g. to carry out risk assessments) to assist with health and safety and implementing procedures for serious and imminent risk
- Any health and safety information the employer is required to provide by law
- The planning and organisation of health and safety training
- The health and safety implications of the introduction (or planning) of any new technology
- The appointment of a person to oversee emergency procedures