

# Webinar: Coronavirus/COVID-19

## Health & Safety Aspects of Increased Production, Strained Resources and Producing New or Different Products

9 April 2020



# Today's Presenter

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# Key Legal Duties and Official Guidance

- Duty on employers to ensure so far as reasonably practicable the health and safety of employees at work and non-employees (contractors, members of the public, etc.) who may be affected by employer's undertaking.
- Potential personal liability for directors and managers.
- Duty on employees to take reasonable care of their own and co-workers' health and safety, and to co-operate with employer on health and safety matters.
- Management of Health and Safety at Work Regulations 1999
  - Duty on employers to carry out a suitable and sufficient assessment of risks posed to employees at work and non-employees arising out of employer's undertaking.
  - Employer's duty to put in place arrangements for planning, organisation, control, monitoring and review of health and safety measures.
  - Employer to obtain competent health and safety assistance.
  - Employer to provide information on health and safety matters to employees.

# Health Protection (Coronavirus, Restrictions) (England) Regulations 2020

- In force from 26 March 2020
- Separate but broadly equivalent regulations for rest of UK.
- Closes restaurants, canteens, cafes, bars and public houses during the emergency period – limited exceptions.
- Closes other businesses inc. gyms, sports courts, soft play areas, etc.
- Food retailers (inc. food markets, supermarkets, convenience stores and corner shops) not included in list of retailers businesses that must close retail premises.
- Restrictions on movement – no person may leave the place where they live without reasonable excuse, including:
  - to obtain food; and
  - to travel for the purposes of work where it is not reasonably possible for that person to work from home.
- Offence not to comply with restrictions – unlimited fine.

- [www.gov.uk/coronavirus](https://www.gov.uk/coronavirus)
- Current guidance for employers includes:
  - Keep everyone updated on actions being taken to reduce risks of exposure in the workplace.
  - Ensure employees who are in a vulnerable group are strongly advised to follow social distancing guidance.
  - Make sure managers know how to spot symptoms.
  - Make sure there are adequate handwashing facilities.
  - Provide hand sanitiser and tissues for staff, and encourage their use.
- Updated from time to time

- [www.hse.gov.uk/news/coronavirus.htm](https://www.hse.gov.uk/news/coronavirus.htm)
- RIDDOR report when:
  - an unintended incident at work has led to someone's possible or actual exposure to coronavirus (report as dangerous occurrence);
  - a worker has been diagnosed as having COVID-19 and there is reasonable evidence that it was caused by exposure at work (report as case of disease); or
  - a worker dies as a result of a work-related exposure to coronavirus (report as a fatality).
- Ensure adequate first aid cover.
- Enforcement:
  - Suspension of targeted inspection activity.
  - Will continue to investigate work-related deaths and most serious major injuries, dangerous occurrences and reported concerns.

# Expanding Production to Meet Increased Demand



- How to expand production without compromising health and safety?
- HSE's HSG65 "Managing for Health and Safety" and IoD/HSE's INDG417 "Leading Health and Safety at Work".
- Plan
  - What preparations need to be made before any changes are made?
  - Requires Board-level involvement.
  - Obtain competent advice.
  - Consult employees/TU/H&S Committee.
- Do
  - Update/create new risk assessment.
  - Design health and safety into the process.
  - New health and safety arrangements.
  - Ensure new arrangements are properly resourced.

# Plan, Do, Check, Act (2)

- Check
  - Collect data on impact of changes (esp. sickness, injuries, near misses).
  - Audit.
  - Seek feedback from employees/TU/H&S Committee.
  - Review latest legislation/guidance.
- Act
  - Address any weaknesses identified and continue to monitor.
  - Build on the successes!

- Machinery may be used more frequently/for longer periods.
  - Maintenance and safety.
  - Thorough examination.
- Staffing levels?
- Training.
- Supervision.
- First Aid.
- Safe Operating Procedures.
  - Lifting.
- PPE.

# The Impact of Workforce Availability

- Coronavirus Regulations require people to work from home where reasonably possible.
  - No requirement for DSE assessment for temporary working from home.
  - Risk assessment. <https://www.iosh.com/media/1507/iosh-home-office-mobile-office-full-report-2014.pdf>
  - Mental health.
- People who are increased risk (e.g. aged 70 or over, have underlying health conditions or are pregnant) should be particularly stringent in observing social distancing measures.
- People who are at even higher risk (e.g. solid organ donor recipients, people with specific cancers, people with severe respiratory conditions, etc.) should rigorously follow social distancing advice.
  - Received letter advising them to stay at home at all times for 12 weeks (“shielding”).

- If people at increased risk are coming into work, employer must reduce the risk so that it is as low as reasonably practicable.
- Steps to consider:
  - Can they work staggered hours so that they do not enter and leave the premises at the same time as many others?
  - Will they be able to come into work using only private transport?
  - Can they work at least 2 metres from anyone else or even in isolation?
  - Can food and drink be brought to them from a canteen and left near them so that they do not have to come into contact with other workers?
  - Can they use toilet and handwashing facilities away from anyone else?
  - Will they have access to adequate PPE, tissues and hand-sanitiser?
  - Will particular care be taken to clean and disinfect frequently touched objects in their area?
- Document the reasons and steps taken.

- May be needed if expanding production or making new products.
- More people looking for work?
- Competence – especially for those in safety-critical work.
- Training, instruction and supervision.
  - Absences?
- PPE.
- Work equipment.
- Do contractors have own H&S management systems in place?
  - Due diligence.

# Checking for symptoms

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- Must be able to recognise symptoms.
- Testing.
  - Refusal?
- If someone is displaying symptoms, they *must* be sent home.
  - Risk to themselves.
  - Risks to others.
  - Potential liability for employer.



# Considerations If Looking to Produce New or Different Products

# Plan/Do/Check/Act again!

- Risk Assessment.
- Competence?
- CoSHH/CoMAH/DSEAR.
- Is work equipment suitable?
- Training?
- Fire risk assessment update?
- Safe operating procedures?
- PPE?

- Many companies (inc. distilleries, breweries and food manufacturers) are considering modifying production lines/utilising spare capacity to manufacture hand sanitiser.
- Some 'red tape' has been removed.
  - Hand sanitisers are usually classified as biocidal products – regulated under EU Biocidal Products Regulation (still applies in UK during Brexit transition).
  - But HSE has announced a relaxation on usual rules for biocidal product rules that use propanol as their active ingredient – won't need a biocidal product authorisation *provided that they follow WHO's specified formulation II*.
  - Alternative formulations/primary purpose could make it a make-up/medicinal product – in which case, other regulatory requirements apply.
  - HMRC have made temporary changes re use and supply of denatured alcohol and duty-free spirits.

## Red tape removal (2)

- But EU CLP Regulation still applies – esp. re labelling and warnings.
- EU REACH Regulation potentially applies (more limited scope).
- Claims that are made about the product will need to be supported by robust data – could make it a medicinal product.

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- Health and Safety laws continue to apply during coronavirus/COVID-19 emergency.
  - Enforcement will most likely focus on most serious breaches.
  - In addition, Coronavirus Regulations apply.
  - Keep up to date on latest guidance.
  - Follow Plan/Do/Check/Act procedure.
  - Seek to remove the risk or reduce it to as low as reasonably practicable.



# Contact Details

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## Concluding thoughts

### How we can help support you

We have set up a dedicated [resource centre](#) for businesses on the legal, regulatory and commercial implications of coronavirus/COVID-19, includes links to related insights and blogs



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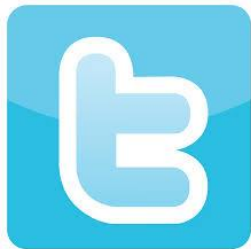
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